

Leave of Absence

Tuesday, February 24, 2015

SENATE

Tuesday, February 24, 2015

The Senate met at 10.30 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to Sen. The. Hon. Christine Newallo-Hosein and Senators Dr. Lester Henry and Helen Drayton who are all out of the country and Sen. Hugh Ian Roach who is ill.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona S.C., O.R.T.T:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona, O.R.T.T. S.C.
President

TO: DR. AYESHA EDWARDS

WHEREAS Senator Helen Drayton is incapable of performing her duties as a Senator due to her absence out of the country:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, AYESHA EDWARDS, to be temporarily a member of the Senate, with effect from 24th February, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Helen Drayton.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 23rd day of February, 2015.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Appointment of a Temporary Senator

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona, O.R.T.T. S.C.
President

TO: MR. STUART YOUNG

WHEREAS Senator LESTER HENRY is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, STUART YOUNG, to be temporarily a member of the Senate, with effect from 23rd February, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Henry.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 23rd day of February, 2015.”

Madam President: Hon. Senators, I also wish to advise that we are awaiting instruments for two other Senators and we will take that later in the proceedings.

OATH OF ALLEGIANCE

Senators Dr. Ayesha Edwards and Stuart Young took and subscribed the Oath of Allegiance as required by law:

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2006. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2007. [*Sen. The Hon. L. Howai*]

3. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2008. [*Sen. The Hon. L. Howai*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2009. [*Sen. The Hon. L. Howai*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sport and Culture Fund for the year ended December 31, 2004. [*Sen. The Hon. L. Howai*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sport and Culture Fund for the year ended December 31, 2005. [*Sen. The Hon. L. Howai*]
7. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sport and Culture Fund for the year ended December 31, 2006. [*Sen. The Hon. L. Howai*]
8. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sport and Culture Fund for the year ended December 31, 2007. [*Sen. The Hon. L. Howai*]
9. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sport and Culture Fund for the year ended December 31, 2008. [*Sen. The Hon. L. Howai*]
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Sport and Culture Fund for the year ended December 31, 2009. [*Sen. The Hon. L. Howai*]
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Princes Town Regional Corporation for the year ended September 30, 2007. [*Sen. The Hon. L. Howai*]
12. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Princes Town Regional Corporation for the year ended September 30, 2008. [*Sen. The Hon. L. Howai*]
13. Annual Audited Financial Statements of TAURUS Services Limited for the financial year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
14. Audited Financial Statements of the Tourism Development Company Limited for the financial year ended September 30, 2012. [*Sen. The Hon. L. Howai*]

Papers Laid

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15. Audited Financial Statements of the Trinidad and Tobago Free Zones Company Limited for the financial year ended December 31, 2013. [*Sen. The Hon. L. Howai*]
16. Report of the Central Bank of Trinidad and Tobago with respect to the Progress of Proposals to Restructure Colonial Life Insurance Company (Trinidad) Limited (CLICO), British American Insurance Company (Trinidad) Limited (BAT) and CLICO Investment Bank Limited (CIB) for the quarter ended December 31, 2014. [*Sen. The Hon. L. Howai*]
17. Annual Report of the Financial Intelligence Unit of Trinidad and Tobago (FIUTT) for the period October 01, 2013 to September 30, 2014. [*Sen. The Hon. L. Howai*]
18. Report on the Management of the Activities financed by the Green Fund for the financial year ended September 30, 2014. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]
19. Air Pollution Rules, 2014. [*Sen. The Hon. G. Singh*]

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, notwithstanding the absence of several of my colleagues who are engaged in bilateral talks with President Maduro and his delegation from Venezuela, we are in a position to answer questions 29, 30, 31, 64, 33 and 34.

Sen. Robinson-Regis: Madam President, before we get into the questions more fully, may I ask that question No. 64 be deferred, please, in the absence of Sen. Dr. Lester Henry?

Sen. The Hon. G. Singh: Well, we have a comity approach to this and, therefore, we have no problem in deferral pending the return of Sen. Dr. Lester Henry.

Sen. Robinson-Regis: May I also indicate that several of these questions are questions that were on the Order Paper and were deferred previously and could I enquire when they would be answered?

Additionally, I would like to enquire when the questions that are on for written answer will be delivered?

Sen. The Hon. G. Singh: There are two questions for written answer, Madam President, and question No. 15 is available and will be circulated at the next session and having regard to the fact that we have a new Minister of Sport, he is reviewing the answer to question No. 19 currently. So that too would be available within the month of March.

The following questions stood on the Order Paper:

**Housing Development Corporation
(Details of Houses)**

16. With respect to the Housing Development Corporation (HDC), could the hon. Minister of Housing and Urban Development inform this Senate of:
- (a) the number of houses constructed throughout Trinidad and Tobago for the period May 2010 to August 2014;
 - (b) the specific number of houses constructed in each Housing Development; and
 - (c) the total cost to build and outfit these houses? [*Sen. C. Robinson-Regis*]

**“New Flying Squad”
(Status of)**

23. Would the hon. Minister of National Security provide the status of the investigation into the re-establishment of a “New Flying Squad”? [*Sen. C. Robinson-Regis*]

**National Commission for Self-Help
(Details of)**

24. Would the hon. Minister of Community Development inform this Senate on:
- (a) the number of projects that were approved by the National Commission for Self-Help (NCSH) for the period June 2010 to November 2014;
 - (b) the nature and location of each project; and
 - (c) the cost of each project? [*Sen. C. Robinson-Regis*]

**Ministry of National Security
Advertisements and Public Relations Campaigns
(Details of)**

27. Could the hon. Minister of National Security provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of National Security in the media for the period January 2011 to November 2014? [*Sen. C. Robinson-Regis*]

**Government Borrowing
(Total Amount of)**

62. Could the hon. Minister of Finance and the Economy indicate the total amount of government borrowing for the period January 2013 to present? [*Sen. Dr. L. Henry*]

**Revised Estimates
(Reasons for)**

- 64.** Could the hon. Minister of Finance and the Economy explain the main reasons for the revised estimates of economic growth for 2014, from a predicted 2.5% to 0.5%, as announced by the Central Bank in December 2014? [*Sen. Dr. Lester Henry*]

**Advertisements and Public Relations Campaigns
Ministry of Justice
(Cost of)**

- 32.** Could the hon. Minister of Justice provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Justice in the media for the period January 2011 to November 2014? [*Sen. C. Robinson-Regis*]

**CathLab
Scarborough General Hospital
(Details of)**

- 65.** With respect to the new Cardiac Catheterisation Laboratory (CathLab) under construction at the Scarborough General Hospital could the hon. Minister of Health state:
- i. the expected completion date of this construction;
 - ii. the expected date of commissioning and the start of Cardiac CathLab services at the Scarborough General Hospital;
 - iii. whether a cardiologist has been selected to direct the Cardiac CathLab Programme at the Scarborough General Hospital;
 - iv. whether there is a plan to partner with a Cardiac CathLab and Cardiothoracic Surgery Programme in Trinidad to initiate these services;
 - v. whether there is a plan to train a Scarborough General Hospital team to operate the Cardiac CathLab;
 - vi. if there is a plan to train the staff, could you state where this training will be taking place; and
 - vii. if it is the intention for the Cardiac CathLab to be internationally accredited and if so, what type of accreditation is being sought? [*Sen. Dr. V. Wheeler*]

Questions, by leave, deferred.

**Ministry of Local Government
(Cost of Advertisements and Public Relations Campaigns)**

29. Sen. Camille Robinson-Regis asked the hon. Minister of Local Government:

Could the Minister provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Local Government in the media for the period January 2011 to November 2014?

The Minister of Local Government (Sen. The Hon. Marlene Coudray): Madam President, the reply to the question: over the period January 2011 to November 2014, the Ministry of Local Government spent an aggregate sum of \$3,442,168.90 on advertisements and public relations campaigns.

Details of expenditure by year are as follows: The year 2011, \$412,301.68. The breakdown:

BREAKDOWN OF EXPENDITURE FOR MINISTRY OF LOCAL GOVERNMENT 2011			
NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
1	Government Information Services	Media Placement of the Minister's message	109,034.84
2	Corbin Communication	Advertisement	5,106.00
3	Trinidad Express Newspaper	Advertisement	2,960.10
4	Trinidad Express Newspaper	Advertisement	2,960.10
5	Trinidad Express Newspaper	Advertisement for 14 corporations	38,047.00
6	Government Information Services Limited	Media Placement for press release on behalf of the Ministry	14,653.30

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NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
7	Government Information Services	Media Placement Request for Proposal Integrated Waste Policy investment plans	42,176.25
8	Government Information Services	Media Placement of Public Notice	5,290.00
9	Government Information Services	Media Placement	6,210.00
10	Trinidad Publishing Company	Media Placement	13,627.50
11	Government Information Services	Media Placement	6,296.25
12	Government Information Services	Press Release on market and Public Services Day	14,978.76
13	Government Information Services	Publication	5,175.00
14	Government Information Services	Publication	1,635.30
15	Trinidad Express Newspaper	Publication	22,938.32
16	Government Information Services	Publication	82,400.46
17	Government Information Services	Publication	38,812.50
	Total		412,301.68

2012

NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
1	Government Information Services	Publication	63,357.53
2	Newsday Limited	Advertisement	2,587.50
3	Newsday Limited	Publication	3,415.50
4	Newsday Limited	Advertisement for vacancy	2,587.50
5	Newsday Limited	Publication	3,415.50
6	Newsday Limited	Two (2) advertisements	9,563.40
7	Heritage Company Limited	Publication	3,450.00
8	Government Information Services	Publication	5,678.13
9	Government Information Services	Publication	5,678.13
10	Government Information Services	Publication	943.00
11	Government Information Services	Publication	55,534.08
12	Government Information Services	Publication	123,844.74
13	Frederick Gabriel	Advertisement	700.00
14	Government Information Services	Publication	59,093.43
15	Government Information Services	Publication	28,129.00
	Total		367,977.44

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2013

NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
1	GISL	Media Schedule	20,843.75
2	GISL	Media Schedule	20,484.38
3	GISL	Media Schedule	20,196.88
4	Silverpin Design Company Ltd.	Documentary	14,288.75
5	GISL	Media Schedule	29,900.00
6	GISL	Notice-Database System Specialist	28,936.88
7	GISL	Vacancy-Communications Manager	23,646.88
8	GISL	Notice-Closure for staff function	2,975.63
9	Ross Advertising	ODPM TV bulletins	20,700.00
10	Ross Advertising	ODPM radio bulletins	1,428.30
11	Ross Advertising	ODPM radio & TV bulletins	18,258.55
12	GISL	Advertisement	15,453.13
13	GISL	Advertisement	42,607.50
14	GISL	Advertisement	31,912.50
15	GISL	Advertisement	61,891.33
16	GISL	Advertisement	20,778.78
17	Silverpin Design Company Ltd.	Design for Newspaper Spread	2,990.00
18	Maser	Photographic Services	10,177.50
19	Maser	Graphic Design Services	13,800.00

NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
20	Silverpin Design Company Ltd.	Videography for Documentary	14,288.75
21	GISL	Publications	5,678.13
22	GISL	Publications	5,678.13
23	GISL	Publications	19,126.80
24	GISL	Publications	54,696.88
25	GISL	Publications	63,965.88
26	Newsday	Notice	2,328.75
27	GISL	Advertisement	931.50
28	GISL	Advertisement	21,289.38
29	GISL	Advertisement	94,289.08
30	GISL	Advertisement	33,529.98
31	Smart Venture Investment Co. Ltd.	Video production	50,000.00
32	Smart Venture Investment Co. Ltd.	Video production	50,000.00
33	CNMG	Advertisement	57,500.00
34	Precision Design Studio	Design of Spread	7,500.00
35	Aidoo Harry	Newspaper layout	700.00
36	GISL	Media Placement-Vacancy Manager Info Systems	41,227.50
37	GISL	Media Placement-Achievements for fiscal 2013	500,612.25
	Total		1,424,613.75

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2014

NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
1	Government Information Services	Advertisement	18,356.88
2	CNC3	50 Television spots for Ministry of Local Government achievements	164,703.00
3	CCN TV6	Television spots for Ministry of Local Government achievements	214,569.30
4	Caribbean New Media Group	Television spots for Ministry of Local Government achievements	57,500.00
5	Government Information Services	Press Release for the signing of the Memorandum of Understanding	60,343.95
6	Government Information Services	Advertisement on public auction on Toyota Fortune	1,978.00
7	Government Information Services	Publication of Welcome to the new Minister in daily newspaper	29,572.25
8	Government Information Services	Advertisement	33,479.38
9	Government Information Services	Advertisement	23,152.38

NO	NAME OF SUPPLIER	PARTICULAR OF SERVICES	EXPENDITURE
10	Government Information Services	Advertisement for Request for Proposal	29,339.38
11	Government Information Services	Advertisement for Request for Proposal	5,750.00
12	Guardian Media Limited	Advertisement for Request for Proposal	3,162.50
13	Precision Design Studio	Advertisement for Notice of the Dog Control Act	2,600.00
14	Government Information Services	Advertisement re: orientation of Local Government Councillors and two vacancies	212,691.94
15	Government Information Services	Advertisement	301,244.81
16	Government Information Services	Press Release for the signing of the Memorandum of Understanding	29,339.38
17	Government Information Services	Advertisement	34,571.88
18	Horsham Printing	Printing of call cards	345.00
19	Amlar Fine Food	Catering for Divali	14,576.25
	Total		1,237,276.28

Sen. Robinson-Regis: Supplemental, please? Thank you, Madam. Minister, would you be able to say what is the process for determining which companies you use to place advertisements? And secondly, would you be able to indicate—despite the fact that you have given a list of ads that have been placed, I did not hear anything specific about public relations. I would like to know if there is a difference as far as you are concerned with regard to that?

Sen. The Hon. M. Coudray: Well, Madam President, first of all these issues are strictly administrative issues that are handled by the Permanent Secretary and Communications Departments. So that the policy will be there—whatever the financial policy is, get your three quotes. I cannot answer that question. I will not venture to answer. So that I cannot really assist at this time, based on the process for handling these advertisements. Whether it is public relations or advertisement, this is determined by the Permanent Secretary. This is the Permanent Secretary's call.

Sen. Robinson-Regis: So, if I were to ask a specific question regarding the process, you would be able to give that information on another occasion? Would you be able to say that?

Sen. The Hon. M. Coudray: Certainly, if the question is asked, Madam President, it will be taken to the Permanent Secretary and the answer will be provided I am sure.

Sen. Robinson-Regis: Minister, would you be able to indicate—on each occasion in the estimates, the amount has been increasing significantly— can you indicate whether the total amounts have been used because, from the examination of the estimates, it appears as though these amounts have not been—do not correlate to the amount that you indicate has been spent?

Sen. The Hon. M. Coudray: Well, that information, I will not have offhand, in terms of what was used and what was not used. As I said, Permanent Secretaries, you may well know, have a financial expenditure limit of \$1 million per item. So that all these things really do not come to the Minister's attention, these are considered administrative matters. In terms of advertisements for vacancies, these are strictly administrative things.

Sen. Robinson-Regis: There are other advertisements that would be outside of administrative, and that is why this question is posed. So that the limit, once the proper quotations are done and once the proper tendering is done, it can go over the \$1 million limit of the Permanent Secretary. So it is not just the Permanent Secretary's limits that are included in this question. The question is broader than that.

Sen. The Hon. M. Coudray: Well, Madam President, in terms of cost that went over the cumulative figures I have given, and in two particular years, 2013 and 2014, the total expenditure for the year, and in the case of 2014, for 11 months, exceeded \$1 million in the aggregate. But I said the individual items were—I think the highest was \$500,000 for one service that was provided.

11.00 a.m.

Sen. Robinson-Regis: Further supplemental, please. The point I am making, Minister, is that it is not only the matters or advertisements that came within the PS's limit that are included in this question. So, if it was only those advertisements or public relations issues then the question has not been answered, because within the estimates the figures are much higher than what you have quoted.

Sen. The Hon. M. Coudray: Madam Vice-President, I gave the total expenditure and estimates are just that, estimates. So, Ministries and departments ask for funding, they are provided with an allocation. They may or may not expend all of it depending on the circumstances. So that we cannot say that, you know—I would be happy that all the money was not spent and we could have vired it somewhere else; transfer the funds by virement to do other things that are more pressing. So that I do not understand the question, because we have said here this is all the expenditure for those years under that item. It is a vote. That is the name of it. It is across all Ministries: printing, publication and public relations, I do not know what else I can add to that.

Sen. Robinson-Regis: I am aware of that but what I am saying is the estimates, the actual is different from what you are quoting. So, I am just trying to find out why is that discrepancy. Except the estimates from the actual, because in the following year there is an actual.

Sen. The Hon. M. Coudray: They are usually different. The estimates are what you are allocated. You may not be given all your releases and, therefore, you cannot spend what was not released, in that case. So you would have the estimates, you project, you do your projections and you get money in the estimates, and you may or may not spend it all. That is how I—except I am totally lost, Madam President. I do not understand what—[*Interruption*]

Sen. Robinson-Regis: The point I am making, and maybe I am not making it clearly enough, the point I am making, with each subsequent year there would be an estimate and the following year you would see what was the actual, and I am saying that the actual is different from what you are quoting. So I am just asking if you are aware of that and if there is an explanation for that.

Hon. Senator: Ask another question.

Sen. Robinson-Regis: I can ask the question.

Sen. The Hon. M. Coudray: Please ask the question on another occasion and provide details so that we will be able to deal with it. Yeah. [*Crosstalk*] Well, details will help us here.

Sen. Robinson-Regis: I will do that.

**Ministry of the Attorney General
(Cost of Advertisements and Public Relations Campaigns)**

30. Sen. Camille Robinson-Regis asked the hon. Attorney General:

Could the Minister provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of the Attorney General in the Media for the period January 2011 to November 2014?

The Attorney General (Sen. The Hon. Garvin Nicholas): Madam President, my information is that the cost of advertising for the period January 2011 to November 2014 is \$1,685,435.18. This was incurred for advertising of job vacancies, notice of winding up of companies, and notices of training for bailiffs and closure of offices. My information is that no funds were expended for public relations campaigns.

Sen. Al-Rawi: Supplemental, Madam President. Hon. Attorney General, could I, just for clarification, understand whether your information with respect to the part of the question dealing with public relations campaigns includes public relations events? That is events held specifically for public relations activities in the Ministry. I think that, perhaps on our side, the term “campaign” may lead to different interpretations, so I would just like to find out what was answered from that perspective.

Sen. The Hon. G. Nicholas: Absolutely. In terms of events, such as, for instance a Christmas party—I suppose that is what you are referring to.

Sen. Al-Rawi: Yes, Sir.

Sen. The Hon. G. Nicholas: That is dealt with under the entertainment vote and, therefore, does not form part of public relations.

Sen. Al-Rawi: Thank you, Sir.

Sen. Young: Supplemental, please, Madam President. Mr. Attorney General, it is my specific recollection, during this period of time there were full page—the whole of the broad page—at least two pages of ads coming from the office, headed the Office of the Attorney General, about his achievements, the then sitting Attorney General, about his achievements with certain cases, et cetera; that does not, according to your definition of what this figure includes, fall under this. Does it? Or do you know? Sorry.

Hon. Senator: It was entertainment.

Sen. Young: Well, it could not be entertainment because it was informal at the time.

Sen. The Hon. G. Nicholas: I have not actually seen the advertisement to which you refer, but if it is that you have another question with regard to that I will be happy to deal with it.

Sen. Young: Further supplemental, Madam President. Hon. Attorney General, is it that any advertising done by the then officer who held the position of hon. Attorney General, under the heading of Attorney General, under his emblem, would have fell within this figure of \$1.68 million? Or are you aware?

Sen. The Hon. G. Nicholas: My information is that this dealt with job vacancies, notices of winding up of companies, notices of training for bailiffs and closure of offices.

Sen. Young: Thank you.

Sen. The Hon. G. Nicholas: That is what I have been supplied with.

**Ministry of Finance and the Economy
(Cost of Advertisements and Public Relations Campaigns)**

31. Sen. Camille Robinson-Regis asked the hon. Minister of Finance and the Economy:

Could the Minister provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Finance and the Economy in the Media for the period January 2011 to November 2014?

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Madam President, the total expenditure on the cost of advertising and public relations campaigns conducted by the Ministry of Finance and the Economy over the period January 2011 to November 2014 amounted to \$5,067,161.37. This figure does not include the publication of the budget documents and the Estimates of Expenditure, as well as the post-budget forum, which is the television post-budget forum. For the four years that figure amounted to \$6,367,952.17 in respect of the budget documents.

What I have done is identified it by way of the major headings. The expenditure in respect of the FIU amounted to \$583,872.54; expenditure in respect of Clico and the settlement of the bonds and the settlement of the EFPAs was \$885,477; expenditure in respect of Hindu Credit Union amounted to \$549,059;

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promotions and publicity printing amounted to \$1.8 million, \$1.9 million, \$1,895,219, and this dealt with newsletters, calendars, closure of offices, magazine ads, uncashed cheques, state enterprise manuals, publications of the state enterprise manual, public service week, the printing of bond transfer forms, business cards, preparation for the international bond issue; job vacancies, total value of expenditure, there was \$760,470, and general publications by the Ministry amounted to \$393,000 over the four-year period. Thank you, Madam President.

Sen. Robinson-Regis: Minister, you indicated a heading, publications and promotions, could you repeat the—*[Interruption]*

Sen. The Hon. L. Howai: Schedule?

Sen. Robinson-Regis: Yeah. Could you?

Sen. The Hon. L. Howai: Yeah. Promotions and publicity printing, \$1,895,000. That included newsletters, calendars, ads for the closure of offices, various offices, magazine ads, uncashed cheques, the ads for the uncashed cheques where we would indicate the names and the cheques which have not been cashed, publication of the state enterprise manual, expenses incurred for the public service week, printing of bond transfer forms, printing of business cards, and preparation, publication and advertising for the international bond issue.

Sen. Robinson-Regis: Further supplemental, please. Minister, could you indicate whether, when you host various fora, this comes under the heading of public relations, and whether that expenditure is included there?

Sen. The Hon. L. Howai: Yeah. We do have conferences under a separate conference heading, but I do not recall—no, well, we would have had a few over that period, 2011 to 2014, but I do not have that figure with me right now.

Sen. Robinson-Regis: And would you indicate whether promotions—there is a heading, specifically, promotions, publications and advertisements—there is a specific heading, I think it is either 69 or 62, whether that is included in that figure, all that is encompassed by that heading.

Sen. The Hon. L. Howai: Yes, Madam President, all of it is included. What I tried to do though was to break it out under the major headings for which the expenditures were incurred. So like for Hindu Credit Union, for Clico, for job vacancies and so on, what I did is broke it out according to those specific headings, so that it is easier to understand what the funds were spent for.

Hon. Senator: A focused approach?

Sen. The Hon. L. Howai: Yeah.

Sen. Robinson-Regis: Minister, are you aware that the figures in the budget—and it is the same issue I had with the Minister of Local Government—*[Interruption]* Yes. Your actual and your estimated do not correlate with the figures that you are giving to the Parliament.

Sen. The Hon. L. Howai: Okay. Well, I will need to see the estimate numbers that you are looking at, but what we have done is—certainly the estimates, you are talking about the actual out-turn at the end of the year in the appropriation accounts?

Sen. Robinson-Regis: Yes, the actual.

Sen. The Hon. L. Howai: Okay. Well, I will need to see the numbers because the figures that we—we will have the estimates at the start. Now, coming towards the end of the year, remember we will do the estimated out-turn and then we will do a final set of accounts at the end of January, and at the end of January is when we close the accounts. So at the end of September, just before we read the budget, or sometimes, like last year, for example, we would have read the budget, I think, on September 09, so we would have published our Estimates of Expenditure prior to this, in August, which would have been an estimate of what we thought we would end up with at the end of September. So we would have used these from the actual out-turn for the closing of the accounts in January. So, I just need to make sure that what we are both talking about is the same set of numbers.

Sen. Robinson-Regis: Minister, I think we might be. Having served as Minister of Planning I am aware of the numbers, because if you would recall in the budget, even in this year's budget, the estimate for promotions, publications, and the like, was over \$200 million—over \$230 million, across all Ministries, or most Ministries, and I have asked this question to—now, I think, three Ministers, four Ministers, and each Minister is saying that it is just about \$3 million or \$4million, but for one year the estimate was over \$230 million and this did not include state enterprises. So, I am a little at sea when it comes to the answers to these questions, and I am querying whether the information that is being given to the Parliament is accurate. I am happy to ask you this as a supplemental question.

Sen. The Hon. L. Howai: Okay. Well, I do not have the breakout of the whole \$230 million here, but, for example, my figure would be \$5 million, as indicated in the total. That, however, did not include the printing of the budget documents, itself, and the Revised Estimates, and the Estimates of Expenditure, but, based on what you have asked, I will ask the Ministry of Finance and the Economy to go back and take a look at those numbers and see how it is broken out, because the figure would have included some estimates. I think it may be better to use the numbers that were used at the closing of the accounts in January and see how far off it is. It should not be far off. It may be different but it should not be far off, and then we will see how best we could try and reconcile where those numbers are, versus what you have heard so far.

Sen. Robinson-Regis: Just one further supplemental, Minister, and it is really based on what you have just said. You know, in the preparation of the budget you would normally look at what happened the year before what was actual and then your estimate would be, may be 10 per cent more, or whatever, so it is passing strange that you would have estimated over \$230million for—I do not recall how many. Is it 40 Ministries? I cannot remember the exact number now—and having heard from one, two, three, four, four Ministers or five Ministers, only about \$15 million has been spent over the four-year period, and the \$230 million was for this fiscal year alone. So, I am just a little concerned about that.

Sen. The Hon. L. Howai: Okay. Well, Madam President, as I said, I will ask the Ministry of Finance and the Economy to pull out some of the numbers so that we could get a better analysis of it.

11.15 a.m.

Madam President: Hon. Senators, we have already taken six supplemental questions on this question, and question time has expired. I therefore wish to ask if hon. Senators would like to continue with the next question, the other two questions, as indicated by the Leader of Government Business in the Senate?

Sen. G. Singh: Madam President, we are prepared to answer. There are two more questions on the Order Paper that are slotted for today. I do not know what are the sentiments of Sen. Camille Robinson-Regis, because she is the one requesting the answers to those questions.

Sen. Robinson-Regis: Madam President, having waited so long for these questions to be answered, I am quite willing to wait another week. Thank you.

Expiration of Question Time

Tuesday, February 24, 2015

EXPIRATION OF QUESTION TIME

The following questions stood on the Order Paper:

Ministry of Tertiary Education and Skills Training (Cost of Advertisements and Public Relations Campaign)

33. Could the Minister provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Tertiary education and Skills Training in the Media for the period January 2011 to November 2014? [Sen. C. Robinson-Regis]

Ministry of Planning and Sustainable Development (Cost of Advertisements and Public Relations Campaign)

34. Could the Minister provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Planning and Sustainable Development in the Media for the period January 2011 to November 2014? [Sen. C. Robinson-Regis]

Question time having expired, questions 33 and 34 were not dealt with.

ARRANGEMENT OF BUSINESS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, in accordance with Standing Order 20(4), I beg to move that the Senate consider Government Business instead of Private Business.

Agreed to.

ADOPTION OF CHILDREN (AMDT.) BILL, 2014 [Second Day]

Order read for resuming adjourned debate on question [February 03, 2015];

That the Bill be now read a second time.

Question again proposed.

Madam President: Hon. Senators, those who spoke: the Hon. Clifton De Couteau, Member of Parliament, Minister of Gender, Youth and Child Development, mover of the Motion, and Sen. Stuart Young. All Senators wishing to join the debate may do so at this time.

I call on Sen. Abdul-Mohan.

Sen. Joy Abdul-Mohan: Thank you very much, Madam President and Members of the Senate, for the opportunity to make a few comments on an Act to make provision for the regulation of procedures governing the adoption of children and to give effect to the United Nations Convention on the Rights of the Child, 1989.

Let me also take this opportunity, Madam President, together with the Independent Bench, to congratulate you on your appointment as President of the Senate. We wish you all God's blessings on this venture.

I want to thank hon. Minister De Couteau for leading us through and giving us some very good explanations and presenting the Bill and laying it on the table. I know we have several documents that were emailed to us to consider, with amendments and so forth, but from the onset I want to reiterate that most of these procedures are long overdue, and I support their intentions. Suffice it to say I, however, would like to make a few comments.

I believe most people would agree that like foster care, adoption is one of the best options for providing homes for children who cannot live safely with their own parents, guardians and caregivers. Therefore, the adoption process should be as smooth as possible, to ensure that the State through legislation can provide day-to-day care for children that need protection from family situations that could place children at risk, and children who have been neglected and abused and abandoned.

Madam President, in recent times, as we all are aware, some very "grosstic" and inhumane actions have been meted out to our nation's children, and I call them the "treasures of our land". It has become like a never-ending abyss. When the debate took place on the Children's Act and the Children's Community Residences, Foster Homes and Nurseries (Amdt.) Bill in this Chamber and in other places, we heard much about our nation's children, through some horrific and statistical reviews. I will not repeat the number of incidents that were identified. We must keep in mind, however, that every child is unique.

Children come from a variety of cultural, economic and religious backgrounds, and they may have special physical, developmental, emotional or mental needs. Because I have been blessed with the opportunity to work with several children's homes and orphanages and foundations, like many of us here seated, I have been exposed to some of the realities of the state of foster care and those waiting for adoption; for instance, learned behaviours, broken self-esteem, education issues—and I think the hon. Minister De Couteau mentioned some of

these in his presentation. But I ask the question—I am wondering: How will these new legislative proposals include training on how to treat with these realities? Therefore, every government, every community, every society, every individual must work towards what is best for the child, whether it is long-term foster care, customary care, legal custody or adoption, for it takes a village to raise a child. We have heard that since we were growing up.

Madam President, we need to take a more critical view of the adoption system in our country. Thus I would hope that any regulation, any procedure or legislation laid on the table will help to maintain universal standards regarding adoption. This is why I am very pleased that the Bill as stated in clause 3 includes “to give effect to the United Nations Convention on the Rights of the Child, 1989”.

Just to share with this august Chamber, one of the most comprehensive surveys of abuse in foster care was conducted in conjunction with a Baltimore lawsuit in 2005 by one called Prof. Trudy Festinger, head of the Department of Research at the New York University School of Social Work, which determined that over 28 per cent of the children in state care had been abused while in the system. Reviewed cases depicted a pattern of physical, sexual and emotional abuses inflicted upon children in the custody of the Baltimore department. Cases reviewed as the trial progressed, revealed children who had suffered continuous sexual physical abuse or neglect in foster homes known to be inadequate. Cases included that of sexual abuse of young girls by their foster fathers, and who contracted sexually transmitted diseases.

It was reported that children were physically abused, handcuffed, beaten, chained and tied up, kept in cages, over-drugged with psychotropic medication for institutional convenience. But for me, the most troubling result of this review was the level of abuse which was undetected and unreported. That is in the United States, but as we come closer to home, that is where my concern lies: when we engage in debates regarding foster care and adoption, the level of abuse which is undetected and unreported. The question is, therefore: How can we ensure through proper legislation the provision of a safe environment for children, especially after they were born into violence and abuse?

While growing up we were hardly ever exposed to the concept of adoption. Why? Because everyone kept adoption hush-hush, but listening to the hon. Minister De Couteau when he shared his own personal experience, it was very open. Adoption was a big secret and many persons—the adopted, the adopters and birth parents, would prefer not to share that secret because of the stigma attached

to adopted children. I say this due to a not-so-very-nice experience I had once. I only became aware that a child was adopted when the child became a teenager and made some errors, like most teenagers, and an extended relative said, “Well, you know, she is adopted, so that is expected”. Of course, my reply was, “No, not at all. What does that have to do with the child’s behaviour”? Of course, I will not repeat the rest of the conversation. So there is a large stigma attached to the whole process of adoption. However, we have come a long way I believe, and adoption and foster care are openly and more comfortably discussed.

Most adopted children, including those previously in foster care, adjust well and develop few problems; however, as children age, they may develop feelings of rejection because they were given up by their birth family. So during adolescence and young adulthood in particular, adopted persons may be very curious about their birth parents, even if they do not ask about them. Some adopted people seek information about, or seek out their birth parents, and some birth parents seek out their birth children. Not telling children they were adopted, can hurt them later. Based on psychological research, children adjust best if they are told that they are adopted, by the age of seven. If asked, adoptive parents should tell the children about the birth parents in a comforting manner as it were.

For example, if the child was abused or neglected, parents can say that the child was removed because the birth parents had problems; they were ill and could not provide proper care.

On the other hand, adoptive parents may say that the birth parent was not able to care for the child, and gave the child to the adoptive parents so they could love and take care of him or her. So there are different ways of dealing with these and, again, the hon. Minister De Couteau mentioned some of these. But children need reassurance that they are loved and always will be loved. How can legislation do this? By a proper process of adoption. So if children have contact with their birth families, it would help for parents to tell the children that two sets of parents love them; no problem with that. Of course, this must be done with great care and caution.

Suffice it to say, Madam President, agencies and all stakeholders repeatedly fail to investigate abuse reports in a timely fashion, find permanent homes for children or even keep track of those children under their care or custody. So for these reasons, ranging from failure to provide adequate supervision and oversight of workers in particular, to failure to provide a safe child care facility, we have encountered massive problems; therefore, we as a nation must look for ways to minimize these systemic abuses.

Further, with the high rate of multiple placements that most foster care children endure, the possibility that they may experience overt physical or sexual abuse becomes an increasing certainty with each move. Yet even those children who are not subject to overt physical or sexual abuse in State or private care, often endure conditions tantamount to abuse. Even further, for those fortunate enough not to find themselves warehoused in glorified prisons, mental hospitals and care facilities, overcrowded medical and emotional neglect are still the norm for many of the nation's children. That quiet abuse we have to watch carefully, and how can legislation play its role by proper adoption processes as it were.

11.30 a.m.

In other words then, the State must not fail to provide adequately-trained social workers, medical treatment and education to children in its care. They must meet the highest standards. It is felt by the general populace that state-owned orphanages or foster care institutions often fail to provide children with permanence or stability. This is the key to a good adoption process, to find permanence and about stability. Therefore, any adoption system must operate with the best interest of the child in mind. It is my opinion, only my opinion, Madam President, that the interest of the child often takes a backseat to the interest of others. It is what I want. It is how I feel or maybe some of the financial gains of having, you know, an adopted child or a foster child.

So, Madam President, adoption is the legal process of adding a person to an existing family. Adoption, unlike foster care, is meant to be permanent, at least in my opinion. The goal of adoption is to provide lifelong security for a child to the adoptive family. So, I am in favour of tougher requirements and legislation before a child is placed in the care of an adoptive parent or adopted parents as it were.

I firmly advocate laws and regulations that will establish particular requirements before a child is adopted such as a criminal background check of individuals. Sometimes, I think, regular parents should have a criminal background check. Members, sometimes I think when couples get married, before they think of having a child, we should check them out—everybody. Things are just getting worse and worse. So, parenthood is so important, whether adoptive or otherwise. Suitability of the prospective parents is fundamental.

So, Madam President, I would advocate establishing the requirement of a mental health check on all adults that want to become parents and care for children. Also, there must be a check on any behavioural issues of the parents' biological children, if any. The decision to place a child in a home through

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adoption cannot be simply about whether or not a home is financially stable. The whole purpose of adopting a child is to assure that they will be loved and cared for in the most humane way, that they will be nurtured and shaped and moulded into worthy citizens of the universe.

Therefore, Madam President, I find myself questioning why important legislation and regulations take such a long time for implementation. Maybe we all ask the same questions. I realize that the process of adoption may be a frustrating one for some people. But I believe these proposals will significantly assist in this regard. This debate for me is not about those who take their roles as parents seriously. It is not about those that strive to be parents due to their compassionate heart and acknowledgment of the fact that the child has been through enough in their short lifetime, as it were, let alone being left in the hands of incompetent guardians and institutions. No. I believe this debate is to raise awareness, that there are proper procedures in place to give the opportunity to responsible individuals to shape and mould a child in a safe environment and to provide a suitable home.

You know, Madam President, it is about making the lives of children better, more stable, safer, more loving. It is about protecting the religious liberties of children, as stated in clause 7(11). Therefore, relevant regulations must be implemented to ensure that the adoptive process is of the highest standard in every regard—economic, psychological, religious, and you name it. It is a combination of issues.

Therefore, relevant regulations are important, and thus education is the key. Without proper education on the adoption process, individuals will not become aware of what adoption entails. That is why there must be continuous assessment of adoptive parents. The question will be asked, and I will ask it again and again: what process is used for continuous assessment of adoptive parents? Maybe those will be in the regulations, not in the actual Bill. I ask this question because some prospective parents will be assessed prior to the adoptive process or arrangements. But what if during the first few months or years of adoption, the parents develop certain tendencies that are unacceptable. What process of accountability is there to ensure that these care providers and individuals are of the highest standards and are working within the law? Thus, I am not too sure I agree entirely with clause 8(12) with the waiving or reducing of the probationary period. I prefer a fixed probationary period of six months because it ensures the level of accountability. And if you increase it, I am happier. It should not be easy for persons to really adopt a child, although it may be frustrating at times, but we want to ensure suitability of parenthood.

So, Madam President, there are some ethical issues that we may have to consider, serious ethical issues that must be taken into consideration regarding adoption. Adoption is a social, emotional and legal process through which children who will not be raised by their birth parents become full, permanent, legal members of another family. Sometimes it is easier; sometimes it is much more difficult. As such, adoption involves the rights of three distinct triad members—the birth parents, the child and the adoptive parents. So adoption is also a lifelong process, and ethical issues change over time as children who are adopted become adults and may choose to claim their right to know their genetic and historical identity. Therefore, it is imperative that professionals working in adoption act ethically to ensure the rights of all involved at all points in the process. I believe that clause 23, section 34, in some way addresses this issue. So, I am happy about that.

But finally, Madam President, I am wondering, how can we take into consideration the inclusion of a conscience clause in a Bill such as this? Over the past four decades, different countries in their laws have undergone a proliferation in conscience clause legislation, pitting individuals, religious autonomy against the public interests, most notably in the area of education and health care. Modern conscience clauses have expanded greatly from their origin in the principle of conscientious objection to participation in war. I am sure we all have read about this and we know that since the American Civil War and throughout the wars of the 20th Century, the US Government has routinely allowed exemption of conscientious objectors on religious grounds.

Now generally speaking in Trinidad society, the Trinidad society has decided that religious influence in the education system is a positive thing, causing long waiting lists at the nation's denominational schools, both primary and secondary. So, conscience clauses work. In my own situation, the Presbyterian Church administers over five secondary schools and 72 primary schools which are familiar with this waiting list, and many of our denominational schools. But further, Madam President, in April 2012, the State of Virginia enacted a conscience clause law so that private adoption and foster care agencies may refuse to be involved in any child placement that would violate the agency's religious or moral conviction or policies. So, the State of Virginia in the second state to adopt such a law which has been criticized as an attempt to allow adoption agencies or stakeholders to refuse services to same sex couples. Now, we are getting very sensitive now.

Adoption conscience clauses raises equal protection and due process concerns because they lead to the unequal treatment of individuals based on sexual orientation and the denial of fundamental, familial or privacy rights. Whether conscience clauses will continue their expansion into other areas of civil society of Trinidad and Tobago

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remains to be seen. We may say that does not affect us. We are Third World. We are not First World. So, we do not have to worry about that. But I tell you, the next decade likely will see constitutional changes to these laws, and courts will be forced to decide whether they place a substantial burden on those individuals who are unable to obtain adoption services on the basis of equity and equality.

Traditional family in Trinidad is an institution—mother, father, siblings, some extended family, nuclear families of sorts, and we are called to never discriminate. But globally that model is changing to include only one parent or same sex partnerships. How does our adoption model deal with these global changing realities?—I asked as I read through. I do not want to be the devil’s advocate. I am an ordained minister. So, I would prefer to be an angel of the night or angel of the light.

So, Madam President, these are some of the things that we have to consider. We have to be prepared because we cannot sweep these issues under the carpet or pretend that they are non- issues. Nevertheless, I do support the intention of this Bill and hope that it will make a significant and positive dent in the adoption process, and in the lives of our nation’s treasures, our children. But as we do so, we ensure that it is always in the interest of the child—of the child. I hope, Madam President, that through the process of adoption and through this legislation, we will ensure the safety and integrity of every child, the treasure of our nation in Trinidad and Tobago. I thank you, Madam President. [*Desk thumping*]

Madam President: Hon. Senators, I wish to, at this point in time, revert to my indication earlier that we have two more Senators to swear in. I beg your indulgence to do this at this time. So, we suspend the debate in the interest of bringing our quorum.

SENATORS’ APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona O.R.T.T, S.C.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

Senators' Appointment

Tuesday, February 24, 2015

TO: MR. CHRISTOPHER JOEFELD

WHEREAS Senator the Honourable CHRISTINE NEWALLO-HOSEIN is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, CHRISTOPHER JOEFELD, to be temporarily a member of the Senate, with effect from 24th February, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Newallo-Hosein.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 23rd day of February, 2015."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, O.R.T.T., S.C., President and
Commander-in-Chief of the Armed Forces of
the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: DR. KRIYAAN SINGH

WHEREAS Senator Hugh Russell Ian Roach is incapable of performing his duties as a Senator by reason of his illness:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(b) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, Dr. Kriyaan Singh, to be temporarily a member of the Senate, with effect from 24th February, 2015 and continuing during the absence by reason of illness of Senator Hugh Russell Ian Roach.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 24th day of February, 2015."

Oath of Allegiance

Tuesday, February 24, 2015

OATH OF ALLEGIANCE

Senators Christopher Joefield and Dr. Kriyaan Singh took and subscribed the Oath of Allegiance as required by law.

11.45 a.m.

ADOPTION OF CHILDREN (AMDT.) BILL, 2014

The Minister of Local Government (Sen. The Hon. Marlene Coudray): Thank you, Madam President, and it is a real honour to say that, and I join others in congratulating you in your appointment as President of this Senate.

Madam President, I rise at an opportune time, in terms of where the last speaker left off, Sen. Rev. Joy Abdul-Mohan, and she said whatever we do must be in the interest of the child, and I want to assure the Senator, and this Senate, and this country, that whatever this Government has done since assuming office has always been in the interest of our children of this country. [*Desk thumping*] And not only for the children, but particularly for the children, with the start in 2010, the first act, as the Prime Minister always said, the first Cabinet Note 1 of this administration was the establishment of the Children's Life Fund. [*Desk thumping*]

Madam President, that followed closely with the decision to provide computers to students—all students—who have taken the SEA exams and have gained places in secondary schools, to provide computers for those children, and to date approximately 95,000 computers have been distributed to students as well as to teachers in our secondary schools. [*Desk thumping*]

That is not all, the new teaching hospital in San Fernando, 109 paediatric beds were added to assist with the comfort and care of our children; the decision and the construction—and for those of us who are on that highway every day, we see the accelerated pace at which the new children's hospital is being constructed in Couva, and the development and protection of the child and of children in this country has always been at the heart, at the centre of this Kamla Persad-Bissessar administration and this Government.

Madam President, the achievement, in terms of other achievements, of universal early childhood education, the construction and completion of over 62 of these facilities and new early childhood centres have been established by this Government for our children's safety, security and future, and it has been a major goal of this administration. [*Desk thumping*] The caring demonstrated not only the policy, but the will to act on behalf of our children. The Children's Authority was only properly established under this administration as well as the introduction of other pieces of legislation aimed at securing the well-being of the children, and this has set apart this administration from the PNM.

The Child Protection Task Force, headed by Mrs. Diana Mahabir-Wyatt, was established to deal and to accelerate the issues of children as well as programmes for the upgrade of community residences for housing children. So, we are not only talking, the Ministry—and I want to really commend the staff at the Ministry of Gender, Youth and Child Development, for the kind of work they put in within the short time to bring forward these pieces of legislation. [*Desk thumping*] And Miss Gaietry Pargass, the attorney, was very instrumental in terms of a lot of these things coming forward, and this is why I am very happy, having served at that Ministry, to be here and to be part of this debate today.

In terms of the issues dealing with children, the Prime Minister recently set up a Cabinet committee to address and to provide recommendations, in terms of recent bullying incidents that took place, to determine ways to deal with these issues and, in general, violence in our schools. So, these initiatives clearly demonstrate how children and their well-being are paramount to this Government, and particularly, the leadership of our hon. Prime Minister in this regard.

We are here today based on the Children's Authority Act and the Adoption Board. When I served in that place there were very many issues and challenges in terms of the adoption of children in this country, and there is always, as was indicated by other speakers, the question of demand and supply. There are a lot of people wanting children and there are lots of children suffering out there, but in order to bring the proper legislation in terms of how we deal with it, it has always been a very tedious process, a very frustrating process.

I remember dealing with a case where a family had a little baby and they were looking after this child, but because the process took so long, when their names came up for adoption, they were told "you all are over 60 years old and you can no longer adopt this child". So, you could imagine the trauma and everything else that went with that. So, we as a Government have looked at all these issues and have been trying to find ways of facilitating and aligning families with children in need of adoption. And this has been on our books for far too long without any attempt to really fast track and deal with it.

And it was very clear that the existing adoption Act could not cater—and I think it was mentioned before by the last speaker—for the current issues that people face in the country in the real life situations that exist, and the board itself, that board, under—and there is this young attorney—the Chairman of the Adoption Board, Mr. Imran Khan, really put some work in, in terms of, he was given a mandate to look at all the issues and problems created by the current Act and put on the table ways and means to really expedite and deal with adoptions.

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They had cleared a lot of the backlog but there were some troubling ones which, I think, the legislation would have addressed in some way. So, the need to update, and I stand in support of this legislation, because there is really a need to update and modernize the current Act, and this is being done towards the—and I commend Minister De Coteau in terms of the committee he put in place to bring forward the recommendations to bring this package here today.

The Children's Authority came into existence by virtue of this package of legislation, enacted by the UNC Government in a previous incarnation. So, it is difficult for me to stand here after 10 years and wonder why did it take so long, and people keep asking "why this was not done and why that was not done", but if you care for children enough and you know of all these problems, then it is incumbent that as a Government, at least you show some care for our children and to deal with this. So, I want to commend the Minister of Gender, Youth and Child Development and the entire staff for all this work. It was a really dedicated effort that we are here today.

So, the committee was set in place and we are here today, and I want to refer to some of the amendments. Amendment one deals with reducing or waiving the six-month probationary period in certain circumstances and introducing procedures to make a child available for adoption, and some countries require children to live with their prospective adoptive parents for certain periods before adoption can be completed. This procedure is meant to ensure that the adoption takes place in accordance with the child's best interest. That legislation adopted the French model which requires the six months to elapse after a child is placed in a family before an adoption application is submitted. The trial period is used by the officials to ascertain that the child is well integrated into the adoptive family. National laws differ with respect to when an adoption takes effect.

In Lithuania, individuals are considered the child's adoptive parents from the date of the enforcement of the court decision; while in China an adoption becomes effective from the date of its registration with the competent civil or governmental authority. In some countries adoption can become effective retrospectively. In Senegal, for instance, the adoption enters into force from the date the adoption application is lodged in the competent court. In Argentina, the adoption order takes effect from the date when custody is awarded and the retroactive effect commences at the date of initiation of proceedings.

Any time period imposed to effect adoption should be reasonable enough so as not to dampen expectations while integration is taking place in a family environment. This is especially so in circumstances of interracial or intercultural

adoption, where an appropriate probationary period is required. Interracial and intercultural adoption encourage propensity for persons to ask unsolicited questions and give viewpoints on whether or not interracial or intercultural adoption is socially or psychologically appropriate.

In Trinidad and Tobago, any piece of legislation, therefore, that ignores such issues can really lead to annoying and hurtful situations where the parents do not have the skill to shut them out immediately, and it is therefore imperative that the Children's Authority be given the legislative responsibility to prepare adoptive parents, and not only the legislative responsibility, but the resources to prepare the adoptive parents to deal with such nuances, especially when they are well meaning and sincere.

12.00 noon

In the circumstances, an appropriate probationary period should be legislated to prepare parents to deal with the fallout of such differences—and as again I repeat, particularly here in Trinidad and Tobago. We as legislators must understand that as adoptive children grow and are able to understand language, the adoptive parents may become concerned that others—the careless remarks and offensive comments by other persons would hurt the child's feelings.

Further, we have to be mindful that sensitive adoptive children are susceptible to fall victims of teasing and bullying at school. The best way parents can help children to cope with such threats is to empower the Children's Authority to educate adoptive parents on how to help their children shrug off such worries as best as possible by educating them. So a whole programme has to be put in place and not really, it is not just paperwork as operated in the past that you process, you have a file on a desk for months and, you know, when it happens the adoptive parents are not prepared.

So this is a whole new role for the officers and the staff, and of course, the Authority I am sure is quite capable, but they must look at these issues so that the more of these prospective parents can assist the children and help them to understand why another person may seek to harm them because of their circumstances, the more freedom from having to become upset when traumatized. And this is part of all the bullying and the anger that is taking place out there.

As legislators, rather than making adoption something time consuming or difficult or something that you really do not have to live with, the Children's Authority should be structured to institute modalities to make adoption as prompt as possible and something special and unique. Mechanisms must be put in place for parents to make a child know how excited they are to have that child join a family.

The maxim of adoption should be the importance of reinforcing the child's comfort and pride of being part of a family and ensure that the child does not internalize a message that something is wrong with him or her because he or she had to be adopted. So in terms of the amendment one, the probationary period, there is a time frame in there in terms of a lot of preparation by the Authority in terms of the adoptive parents and the child.

Amendment two provides for protecting an applicant where the child is residing with the applicant for a period of five years. Unless there is compelling evidence, Madam President, that the applicant is an unfit parent to this child, adoption in these circumstances where a child is with the parent, and I talked about in terms of the age factor, the adoption should be as automatic as possible. And this is critical especially where the maxim of comfort and pride of being part of the family would have already been achieved in terms of the new process.

Amendment number three provides for abolishing the requirement that the applicant be resident and domiciled in Trinidad and Tobago or that the child be a Commonwealth citizen and resident in Trinidad and Tobago. And, Madam President, research has shown that only five countries bar non-citizens from adopting their nationals. And these countries are Bangladesh, the Federated States of Micronesia, Namibia, Nigeria and the Seychelles. Exceptions are sometimes made in cases where the adoptive parent is a permanent resident who has applied and qualified for citizenship. Some countries, while not barring adoption by foreigners, have established additional conditions that non-citizens are required to comply with in order to be eligible to adopt a child.

In Macedonia, for example, foreign nationals need special permission from the relevant Ministry to adopt. In Mozambique, adoptions are granted to foreign citizens only when all possibilities of identifying a national family have been exhausted or when the foreign adoptive family resides permanently in Mozambique.

Right here in Antigua and Barbuda and also in Argentina, Malawi, Solomon Islands and in Tanzania, resident requirements are imposed for prospective parents regardless of whether they are citizens or not.

In Malawi, the Adoption of Children Act prohibits the adoption of Malawi children by non-residents. In Antigua and Barbuda, the Adoption of Children Act provides that an applicant who is not a resident domiciled in the country cannot adopt a citizen of the country. The reason for this provision is that the courts are reluctant to grant adoption orders that they may not be able to supervise.

In Argentina, non-residents are not permitted to adopt children residing in that territory. This restriction is motivated by concerns for trafficking in children and the limited number of children available for domestic adoption. In Trinidad and Tobago, the Adoption of Children Act, (67 of 2000), indicates that:

“An adoption order shall not be made in favour of any applicant who is not resident and domiciled in Trinidad and Tobago nor in respect of any child who is not a Commonwealth citizen and so resident.”

However, the Adoption of Children Act will now permit persons who are not nationals of Trinidad and Tobago and who live outside of Trinidad and Tobago to adopt, provided that the court is satisfied that all attempts to secure adoption by applicants who are nationals have failed or that it is in the best interest of the child to grant the adoption.

In the UK, only persons who have been habitual residents in part of the British island for a period of at least one year can apply. Yet, in countries that allow non-resident adoption, they tend to follow the principle of subsidiarity, whereby inter-country adoption is considered only after options are exhausted. This principle is outlined in Article 21 of the UN Convention on the Rights of the Child, which states that inter-country adoption may be considered as an alternate means of child care, if the child cannot be placed in a foster or adoptive family or cannot in any suitable manner be cared for in the child's country of origin.

Countries that have incorporated the principle of subsidiarity in their legislation include Albania, Australia, nearby Barbados among others. And in terms of the current legislation before us, we are keeping, and again I want to quote Sen. Mohan in terms of some of the changes that are proposed. And in many instances, I agree that certain aspects of the law need clarification and may seem ambiguous, and we have attempted in this piece of legislation to address them with a view to making the implementation and application of the Act a smooth process.

However, as the Senator indicated, the Bill might have—there were some gaps in terms of the challenges; some of the challenges that pertain to adoption, and of course, we are saying this is the first stage of our proposal. There are many more that we need to look at, but as we progress we have made a start and a very good start in terms of coming this far in the short time, and if one looks at the issues concerning adoption globally as was said, there are many, many issues that we need to deal with.

And it is possible, Madam President, to envisage that further amendment of the Act may be necessary in the future and, you know, it is a living, it is a dynamic thing and as we go along, as the Children's Authority sits to do its work and as the cases and issues

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come up, I am sure new legislation would be proposed to address some of the gaps and shortfalls in this legislation, and as the issues you mentioned—and I do not think you mentioned the same-sex couples adopting; we are not that advanced, but you never know in future what happens.

There are issues dealing with surrogate parents and that the so-called developed countries are now facing and they are grappling with those, and no doubt these will engage us in the future. But, Madam President, again I commend the Ministry and the Government for reaching this far after over 10 years of this legislation being on the books and I commend this Bill for the approval of this honourable Senate. I thank you. [*Desk thumping*]

Sen. Faris Al-Rawi: Thank you, Madam President. [*Desk thumping*] Madam President, may I, as my first duty to this Senate offer my warmest congratulations to you taking the Chair as the Senate President. It is certainly an honour to have you elegantly dressed in your hijab as you preside over this Senate. So may God bless you and guide you on your duties to the Senate.

Sen. Karim: “Alhamdulillah.”

Sen. F. Al-Rawi: “Alhamdulillah”, Praise be to God, yes. There is actually a phrase for it in Arabic, “qal al-qaida”, so says the President, in female, right. So it is an interesting phrase to use. But, Madam President, may I also in offering that congratulations to you, express my congratulations to the outgoing President of the Senate, Sen. Timothy Hamel-Smith, [*Desk thumping*] who in my humble opinion served this country very well with his poise and balance in the Senate. Certainly, we in the Opposition had the comfort of feeling that we had a fair hearing at all times and it was a very enjoyable experience to work with him; in particular, in seeking to amend the Standing Orders of the Senate which is really work still to be perfected as we move along.

Sen. Ganga Singh had once used a very interesting expression about, “not a drumbeat had rolled and not a sound had been trumpeted as fallen brethren hit the soil”. [*Laughter*] And so, Madam President, it is important for me, using that expression, as I have, to salute the very many fallen brethren opposite.

You know, Madam President, politicians are sometimes their own worst enemies. The politics can become a very difficult scenario, but I think it important to recognize that all persons on the three Benches have had serious contribution to Trinidad and Tobago and have given up of their lives and have given up their family time and their professions to come and serve country. And so, insofar as the bench opposite me will not salute fallen brethren, not even noble comrades

Opposite; yet, I think it important to salute fallen brethren. After all, this Government holds the record for the most number of dismissals and replacements in the history of the Senate of Trinidad and Tobago, certainly. There are three continuing Members of the original Senate, Madam President; those being Sen. Fazal Karim, Sen. Vasant Bharath—[*Interruption*]

Sen. Maharaj: Madam President, Standing Order 35(1), what is the relevance of this to the Adoption of Children Bill? My friend is going astray. [*Laughter*] Have we adopted some of the fallen brethren?

Madam President: Hon. Senator, be guided by the Standing Orders.

Sen. F. Al-Rawi: Thank you, Madam President. Sen. Singh is a little uncomfortable about the fact of the record which his Government holds, some 25 Members dismissed. But anyway, Madam President, the fact is that three Members are now left on this Bench and we as a Senate sit here today, participate here today, to make laws for the peace, order and good governance of our citizens.

Sen. Coudray reflected a little while ago on a few issues. She, of course, could not miss the opportunity as we stand five years later with this Government in charge of Trinidad and Tobago, she could not miss the opportunity to reflect upon a few facts of her Government's supposed achievement.

The fact is, Madam Vice-President—Madam President, forgive me, I am so used to the Vice-President—that Trinidad and Tobago is a continuity of purpose, it is certainly a continuity of effort, it is certainly a continuity of legislation. It is not that it took 10 years simply for this Bill to come to the Senate, it certainly did not do that. Five of those 10 years were spent under the tenure of this Government, after all. Madam President, the point is Trinidad and Tobago stands three months away to the day for a general election to be upon us if one were to calculate from May 24, 2010 to May 24, 2015.

Three months to the day of five years in office; three months to the day of explanations as to where \$300 billion dollars—nearly—in expenditure by this Government has bought us. The fact is, we can make all the laws relative to adoption of children that we wish, the operationalization of the laws is the critical aspect, and therefore value for money considerations in how we spend our way to achieving success is very important as seated in the context of this Bill.

12.15 p.m.

Madam President, this Bill is intended to amend laws in Trinidad and Tobago which have not yet been proclaimed. We are operating with the 1946 legislation, as amended successively in 1948, 1973, 1981. The Adoption of Children Act, Chap. 46:03 is proposed to be repealed upon proclamation of this legislation. That Act of Parliament, Act No. 67 of 2000, which has not yet been proclaimed, in fact represents the now ninth amendment of the laws to deal with adoption. The Bill, as described by the hon. Minister, is intended to harmonize some provisions to make clarity to certain language, but I think that we have not drilled down to the nitty-gritty of some of the legislative concerns that are apparent in the Bill. We have certainly also not drilled down to the operational issues which are also immediately apparent in making this law work.

When one reflects upon what this Act of Parliament does, that is the parent unproclaimed piece of legislation, what it does, essentially, is not so far off in terms of core content from what the 1946 Chap. 46:03 Adoption of Children Act does. What we did in the year 2000 was to bring five pieces of legislation forward. Those five pieces of legislation included, as described, a package of legislation to deal with children. That package of legislation involved everything from the Children's Authority to the adoption of children, to the foster care and residences legislation, et cetera. But that package articulates in a much wider construct.

Permit me to put it in this way. This legislation, to be effective, must work in tandem with the other laws of Trinidad and Tobago. So there must be legislative congruity. It must work with the legislation that governs the Supreme Court of Judicature by way of Act. It must deal with the laws that deal with maintenance of children; the family law provisions. It must deal with the suite of family law protections that exists on the laws of Trinidad and Tobago.

But, Madam President, where we get into some choppy issues starts with, perhaps, why this original Act, No. 67 of 2000, was not passed with a special three-fifths majority. That caused me a bit of concern. When I reflected upon the family law; when I reflected upon the Children Act; when I reflected upon the other pieces of legislation that came with that five in 1999 to 2000, I noted that infringed rights were treated with a special majority concern. What I noticed, as well, when you look to Act. No. 67 of 2000, is that there are several pieces of law that call out for a double thought.

If one were to look at section 16 of the Act; if one were to look at section 22 of the Act; if one were to look at section 17 of the parent Act, you would see that what we are doing, we are certainly infringing upon rights and privileges of the citizens of Trinidad

and Tobago. Now, parents enjoy rights over their children; mothers definitely, by way of parturition—by way of giving birth. Children have the privilege of rights towards their parents. They are entitled to support, maintenance and care. Our Constitution, in sections 4 and 5, certainly preserve inalienable, fundamental human rights in section 4, and then due process rights in section 5 of the Constitution.

But, Madam President, not only was the original legislation not passed with three-fifths majority—which I had a concern about—but this amending piece of legislation causes me further concern. Let us look immediately to the effect of clause 15 of the Bill which amends section 22 of the Act. Clause 15 of the Bill proposes to delete, by way of amendment, section 22(2) of the Act, which was the section by which the child was given the privilege of legal representation in the context of the mechanisms contemplated there. And permit me to get to section 22. Section 22 of the Act says:

“(1) Where an application for an adoption order is made in respect of a child, the court shall, before making the order, take into consideration the views and wishes of the child having regard to the age and understanding of that child.”

And subsection (2) was the provision now removed which ensured that the child had legal representation.

What crossed my mind immediately, if we are removing legal representation, are we now bringing alive the concern as to a due process infringement with respect to fundamental enshrined rights? And if we are taking away a right to legal protection as expressed in the Act, if not already existing, implied and by virtue of the Constitution, can we do that on a simple majority basis? That is a serious question for us to ask ourselves in the Senate.

When we look at, as well, clause 13 of the Bill which seeks to treat with section 16 of the Act—section 16 of the Act deals with information to the parent, or former parent. If we look to section 16 of the Act, we see that this section and section 25 apply to a former parent. We look now to the new introduction of a new subsection (3A) which this clause proposes:

“Nothing in this section shall be construed as permitting the Authority to divulge to a former parent, any information except the notifications required under subsections (2) and (3).”

And this is the circumstance where the child has not been the beneficiary of an adoption order.

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So the original Act, passed without a three-fifths majority, limited the right to information to the parent. That caused me concern—without a three-fifths majority. But subsequently, now, we are further restricting, by way of supposed clarification, the access to information by this subsection (3A) to section 16. My question there is: Are we allowed to narrow those rights which one could argue are included in sections 4 and 5 rights under the Constitution, without the certification of three-fifths majority in the Parliament? I am not sure. I would like the Attorney General to consider the issue and to perhaps speak on this if he is in a position to do so, or certainly, the Minister in his wind up, to address this issue.

Madam President, the Act also, as is now proposed to be cleaned up—the Act also, relative to sections 4 and 5 rights and the need for a three-fifths majority, caused me some concern when I looked at the introduction now of a new section 14A. The new section 14A that we are seeking to bring in—and I am tying this to the three-fifths point. The new section 14A of the Act is brought in by clause 11 of the Bill. Section 14A provides appeals to the High Court from decisions of the Authority. When we look to clause 11 of the Bill, we note:

“The Act is amended by inserting after section 14, the following section:

‘14A. A person referred to in section 12(3)(b) or 14 may appeal from a decision of the Authority to a Judge of the High Court.’”

Now, 12(3) is the section of the Act which deals with information. Section 12(3) deals with the Authority waiving or reducing probationary periods. Sorry. Section 12 deals with:

“An application to the court...shall not be made until the expiration of six months...”

That is the probationary period. Section 12(2):

“The (Authority) may waive or reduce the...period...”

Amendments are proposed to section 12(2)(b) which says where one of the applicants is a parent, step-parent or relative of the child. We then jump down to (3):

“At any time during the probationary period—

(a) the adopter may give notice in writing of his intention not to adopt...; or

(b) the Authority may give the adopter notice in writing of the Authority’s decision...”

Decisions must be given by way of the benefit of reasons. And subsections (4) and (5) provide for reasons and then time frame for action.

But what causes me concern there, in introducing 14A and saying, “Look, in respect of reasons for you not getting to adopt the child, and in respect of section”—sorry, let us look to the language again. Yes. So in respect of 12(4)(b) and this new 14A in clause 11, which says—or an appeal in respect of section 14 itself. And forgive me, it is a little difficult to flip back and forth through the pages, but section 14 itself, in putting this right here:

Where a person has made an application to the Authority to adopt a child and the Authority is of the opinion...”—that that person is not fit proper for whatever reason, it is those two circumstances that are now the beneficiary of an appeal.

Section 15 of the Act has very important consequences as well. Section 15 of the Act, I call the freedom section. That is the section by which any person, not necessarily a parent, may apply to have a child freed for adoption. The language in section 15(1) is where a person makes an application. It is not limited to a person who is a parent or a guardian or a person with responsibility, but any person may make an application to free the child for adoption.

Then section 17 deals with where that right of appeal may exist, and it prescribes here that it is the court that may consider that. But in dealing with that discretion, we are proposing amendments to section 17 where the revocation of the order is only back to parental responsibility for the parent making the application.

So there is a difficulty in retrofitting the situation upon a revocation of an order. Is it that the person should have rights of appeal tied in, in terms of the architecture of the Bill into the new 14A? Should 14A contemplate appeals which are not only in respect of 12(4)(b) and 14, should it also speak to section 15 appeals? Should it speak to section 17 appeals? Are we therefore creating a system where you have need for judicial review in one circumstance and then appeal in other circumstances? I think that there may be some room for confusion inside of here and that causes me concern.

12.30 p.m.

Madam President, when we look for the restrictions on adoption, we are proposing to repeal the new section 23—sorry, the existing section 23 which dealt with restrictions on appeal. We then removed what the age gap fixed in law should have been in section 23 as it existed in the original Act, and we are now

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adding in nothing by way of contemplation there, and I wondered whether we needed to clarify the purpose in another section of the law. Are we, in removing the restrictions on adoption in section 23 by repealing it, are we required to give the court a broader description by way of its discretion elsewhere in the Bill?

If we look, Madam President, to section 24 of the Act, as is proposed to be amended:

“(1) An adoption order shall not be made—

(a) except with the consent of every person...”

But we look to the new subclause (2) as is proposed to be amended:

“...Notwithstanding subsection (1), the Court may make an adoption order where the Court finds that the parent”—has abandoned/neglected, et cetera.

But we are not talking about parent alone in this Act. We are talking about parent or guardian or person with responsibility. So is it that we have created a confusion by narrowing the language only to “parent” as we do in the new subsection (2) of section 24 of the Act?

Madam President, am I close to time? Is there—[*Interruption*]

Madam President: Hon. Senator, it is opportune that you have given me privilege to speak at this point in time, and I would take this opportunity to propose that we break now to go for lunch and resume one hour from the current time, which is 12.32 p.m. The Senate is now suspended.

12.32 p.m.: *Sitting suspended.*

1.32 p.m.: *Sitting resumed.*

Madam President: Hon. Senators, when we took the break Sen. Al-Rawi was on his feet and he spoke for 22 minutes. You may continue, Senator.

Sen. F. Al-Rawi: Thank you very much. [*Desk thumping*] Madam President, thank you very much. Hon. Senators, if I may just recap a point which I think I need to crystallize. I was proposing to take the honourable Senate through the identification of issues arising in the Bill as overlaid on to the context of the Act as originally passed, and I had made the point that we ought to think about whether the Act as originally passed, as Act No. 67 of 2000, itself required a three-fifths majority when first passed, and if you would permit me, Madam President, to explain that point for the listening public.

The Constitution of the Republic of Trinidad and Tobago, which is the supreme law of the land by virtue of the Constitution statement to that effect, prescribes that if there is to be an infringement of any enshrined right set out in section 4 or section 5 of the Constitution, that it must be done on the basis of having achieved a three-fifths majority vote in respect of certain of those rights, both in the House of Representatives and in the Senate. There is an overlay of the law as applied, that the law itself must be proportionate, and therefore, reasonable in a society such as Trinidad and Tobago which observes democracies in good standing as we do. The position is that there are two competing rights on the table.

The first right is the right of the parent over the child—that is, to the liberty and individuality in every sense of the word, be it political persuasion, freedom of thought, expression. Whatever it may be for the child, the parent has a right in respect of that to ensure the well-being of the child, hence the reason in our Constitution to choose one school or religion, et cetera. The other right which is on the table is the right of the child and child is also blessed, and enshrined rights therefore apply to the child under the Constitution to the right of liberty, the right of freedom.

The effect of an adoption order under the Act itself is to be factored by way of example, to show it out in sections 15 and, in fact, in section 31 of the Act. If we look to section 15 which is what I call the “freedom clause”, section 15 of the Act is the mechanism by which a person—and that is any person—can make an application to the authority to place a child for adoption and the authority accepts the application, that child may then go on to being put into the care of the authority physically, affecting its individual freedom. When we look to the effects of an adoption order and we look to section 31 of the Act itself—not yet proclaimed—under Part VI, Registration and Effects of Adoption Orders:

- “(1) The effect of an adoption order is to give parental responsibility for a child to the adopters.
- (2) An adoption order extinguishes—
 - (a) parental responsibility which any person had for the child immediately before the making of the order; and
 - (b) any duty arising by virtue of an agreement...”

Those are the most fundamental rights associated with both parent and child, and therefore, it is my humble submission that so basic a right as the child’s physical location and extinguishing of responsibility of parental rights, and

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therefore, the right of the child to demand of that parent, for instance, maintenance, I think, Madam President, that the Act as originally drafted, Act No. 67 of 2000, is unconstitutional as it is.

It is unconstitutional notwithstanding the fact that you have a due process consideration built into the Act by way of approaching the court on certain matters, and I think insofar as we as a Senate are in agreement with the support to this legislation, I think that this is something that we can easily solve by introduction of a three-fifths certification into the body of this Bill, in the Senate, as we consider amendments perhaps. [*Desk thumping*] May I say that I do not think it was purposeful that this happened, at least in 2000. I am not so sure about the work that went in in looking at it, because sometimes we can lose track, Madam President—[*Interruption*]

Sen. Robinson-Regis: It is the same UNC, not so?

Sen. F. Al-Rawi: Well, what would have happened is, the package of legislation in 2000 was prior to the litigation which we had on the Equal Opportunity Act; and the Equal Opportunity Act which went to the Privy Council and back, that was the section that we were looking at, the three-fifths certification requirement for certain legislation, and I think that our law has come some way since then and that there is no comfort to be had in the due process point being alive in the Bill or in reflection of other pieces of legislation because we have to look at the save-the-law provision that would have existed for laws prior to the Republican Constitution which would have escaped therefore the need for three-fifths certification. But suffice it to say, I think the 2000 law, not yet proclaimed, is unconstitutional, it requires a three-fifths majority and we as a Senate can certainly propose and consider that, certainly after hearing what the Government has to say on it.

Sen. Lambert: So why there was no amendment in 2002 in your period?

Sen. F. Al-Rawi: I would explain. Sen. Lambert has just thrown a little bit of bait which is easy to catch and throw back. He says why was there no amendment in the PNM's time and I will tell him why. It is important to remember details. The PNM Attorney General, John Jeremie, specifically did not implement certain pieces of legislation, and I just gave him the equal opportunity legislation because there was a live issue as a development-of-law point of view as to whether special majority certifications were required. So that is the exact point, and what I am saying is that [*Desk thumping*] right now we are able, in the interest of our entire citizen base and, in particular, our most vulnerable, our children, to attend to that

lacuna which clearly the UNC has not picked up after five years in office in any event. So we will get to that point. I was hoping to avoid the little trading of blows, but my learned comrade colleague has invited me into that. So, Madam President, that is the constitutional point.

We have two other issues inside of the Bill from a legislative language-and-effect point of view, which I have classed into two separate categories. One being need for attention as to whether there is need for an amendment with respect to section 24 of Act, section 23, section 27, section 31, section 33 and section 33(3) and (6), in particular, as superimposed against section 33A.

I am referring to the sections in the parent Act which we propose to amend by clauses in the Bill.

1.40 p.m.

The second category is the issue of offences in general and offences are treated within various sections in the Act and in the Bill—in section 9(2), section 13(2), section 29(3) and section 40(2) of the parent Act, some of which we propose to treat with in the Bill, some of which I think have not been looked at, and that we ought to take a second look at it insofar as we are doing work in the Senate which perhaps the House may consider again.

The third issue on the table which I hope to address this afternoon is the operationality issue because what good is it to make good law if it cannot be put into effect? And we really ought not to spend more valuable time waiting for the implementation of the right fit as opposed to just tinkering with the language of the law. So I will come to the operational issues, perhaps, last.

If I may treat quickly with the first point which is the need for amendment to certain clauses, if you were to look, Madam President, at section 24 of the parent Act. Section 24 of the parent Act deals with adoption orders and it says that:

“An adoption order shall not be made—”—without

“(a) ...consent of every person...

(b) unless...”—that person is a person that—“the court is satisfied...”—has failed to do certain things.

And then it says notwithstanding that the court may make an application where the court finds that the parent has failed to do certain things.

I wish to point out to the drafters of the legislation, as proposed to be amended here, that it is not only the parent who is an applicant under this legislation, and that therefore we ought not by our language to fall short and therefore invite a court to make sense of what Parliament intended, we should look more specifically at the term “parent” as set out in section 24(2) as it is proposed to be amended.

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Next, Madam President, if I may look to section 23. Section 23 of the Act is proposed to be repealed, struck out. Section 23 of the Act is the section which deals with restrictions on adoption orders. There was put in place a fixed time frame. You could not be a certain age younger. There had to be a gap between the adopter and the adoptee in terms of years. There had to be confines of relationship in terms on consanguinity and affiliation, et cetera, and that is proposed to be removed.

But what is of concern to me in removing that provision is how are we treating with it generally otherwise in allowing a court all the authority to put in certain restrictions, because we are giving up, on the one hand, restrictions, and I have not yet heard the rationale for giving it up. Not that I am necessarily opposed to it but I would like to understand what is in the mind of the Minister when he proposed to us that we should repeal the section.

Madam President, may I look further to section 24 of the Act which says—if you look now, section 24 has subsections (1) to (5), and I thought that the drafting in subsection (3), as is proposed to be amended, did not reflect the fact that subsection (4) already proposes what subsection (3) is to have. Let me explain it out. Subsection (3) says as is now proposed to be amended:

“An adoption order shall not be made upon the application of one of two spouses without the consent of the other(, unless they have separated and are living apart from each other and the separation is likely to be permanent;)”

But the existing subsection (4) already says:

“The court may dispense with the consent required by this section if it is satisfied that—

(b) the spouses have separated and are living apart and the separation is likely to be permanent.”

So we will therefore have a duplication in language and meaning between the new subsection (3) as amended and the existing subsection (4). Perhaps, the language could be looked at better. Subsection (5), we have removed the period of non-contact for the parent to the child as a consideration where the time frame was prescribed to be for a period of at least six months. I would like to know why. Why are we removing that particular section, hon. Minister?

Section 27 provides what is meant to be a fillip, an improvement to the Act, as is now proposed to be amended, by the inclusion of a new subsection into that. And it says, as is now proposed, the new 27(3):

“Proceedings in respect of an application...for an adoption order shall be held *in camera* and not generally published.”

Well, why only an application for an adoption order? That means that proceedings for freedom of the child under section 15 are not *in camera*? Why only adoption order? The Children’s Authority deals with a whole gamut of considerations under this legislation, and therefore, I think it inappropriate for us to prescribe unduly a limitation only in respect of adoption orders. It ought to be broader. It ought to include, for instance, the section 17 applications, the section 15 applications of the Act, where any person is applying to free a child for adoption. Any person could be the neighbour next door. Does the parent want to have that published in the paper not *in camera*? Because open court for people that do not practise in court means “everybody is in court”.

We have a system right now where divorces, for instance, which are done in open court—petitions for divorce—if you are dealing outside of the Family Court, let us say in the San Fernando jurisdiction, “open court” means everybody in the courtroom hearing about adultery, about infidelity, hearing about abusive relationships. That is why the Family Court was such an important improvement to the laws of Trinidad and Tobago in terms of its administration. So I humbly suggest that section 27(3) needs to be relooked at to broaden the *in-camera* operation.

When we look to section 31 of the Act as is proposed to be amended, I wondered if we were not unwittingly excluding out the effect of testamentary dispositions. That is dealing with guardianship or beneficial arrangements for adopted persons or persons to be considered in that regard. We treat with trust creation elsewhere, but I wondered if section 31(3) of the Act unwittingly made testamentary dispositions which could be the benefit of an arrangement of adoption an inoperative device. I am concerned to hear from the Minister as to whether we should have a second look at that.

Section 33(3) versus section 33A as we now proposed. Section 33(3) of the existing Act proposes:

“If upon application for an adoption order there is proved to the satisfaction of the court—

- (a) the date of the birth of the child; and
- (b) the identity of child is the same to which any entry...of Births relates, the adoption order shall contain a further direction...”—and—“...the Register of Births”—is—“to be marked with the word “adopted”,...”

But section 33A says:

“Notwithstanding any other written law, where the Registrar General issues a certificate in respect of the birth of an adopted child, the certificate shall bear no overt indication that the child was adopted,”—save and—“except...”—a—“code...”

So how does section 33(3) of the existing law which says the Registrar General must put the word “adopted” rank up now with the new amendment that the Minister proposes to say, 33A says you must not use the word “adopted”, you must use a code? We need to look at that language carefully.

Let us look now to section 33(6). Section 33(6) proposes that we have—a person may make an application to the Registrar General, but that person may do so through a person—another person being a person authorized in writing. You know that people in Trinidad and Tobago are quite ingenious. There are Government ads, for instance, playing right now. I hear my voice on the radio all the time where part of what I said is being played on the Government Broadcasting Network. I made a speech, by way of example, in the internal elections of the PNM, saying the Government wishes you to say that Keith Rowley is not the right person to lead the PNM, that the PNM would be better off without him. They left out the whole front part of it and say “the PNM would be better off without Keith Rowley” and that is playing on 91.9 day and night—*[Interruption]*

Sen. Robinson-Regis: Point 1.

Sen. F. Al-Rawi: Under 91.1—by a Government station. And the fact is, that is misrepresentation, a breach of the telecommunications Act—a number of actionable points. But, in the context of this Bill, let me give you the example, what happens if a wicked person goes forward and says, “I am authorized in writing to get this information”. Well, how do we prove that? Do we want to go further into the realm of saying, look, perhaps, the Children’s Authority ought to be the one to deal with those applications?

Sen. Lambert: “Yuh ha tuh be careful when yuh speaking.” *[Laughter]*

Sen. F. Al-Rawi: Madam President, I have great regard for my comrade Senator opposite, eh. I would not get down into responding to him just yet, I will be there soon enough.

So, Madam President, “Overseas Adoptions” caused me some concern. Now, I do propose in committee stage to spend as much detail as is necessary to try to get the fit right where I believe it ought to be. I will make submissions to that effect. But without prejudice to the particularity to come, may I suggest that the “Overseas Adoption” provisions, section 36:

“(1) The court may make an order, subject to such conditions and restrictions as it thinks fit, authorising the care and control of a child for whom adoption arrangements have been made (or are likely to be made,) to be transferred to a person resident abroad.”

Well, what does “or are likely to be made” mean? Particularly when this law, quite uniquely, accepts an adoption award from any country all over the world without regard to common law jurisdiction status, reciprocity of the enforcement of awards or arrangements as our laws contemplate. So this adoption law says later on that we can do anything in any country around the world, and it is automatically accepted in Trinidad and Tobago without regard to the type of jurisdiction, the type of laws and the congruity of legal systems. I am not so sure that is a good idea. I do not think that our court should be unnecessarily fettered to accept an award from a court where we, perhaps, do not even view that court as being properly constituted. We need to be careful with the reciprocity provisions enshrined in this law.

Madam President, I am also concerned about the offences under the Act. Section 9(2) deals with “Arrangements for Adoption”: \$10,000 and two years imprisonment. Section 13(2) deals with removing the child from an habitual custodial arrangement with a prospective adopter, \$5,000 and nine months imprisonment. Section 29(3), if you breach the requirement, the prohibition against advertising: \$3,000 and six months. Section 42, a breach of a regulation, \$10,000. We know about trafficking in humans. We know as we amend the long title of the Bill that we are dealing with the reciprocity provisions in the monistic theory of law to deal with the Universal Convention on the Rights of the Child.

We cannot, on the one hand, have offences as ridiculously low in terms of punishment as these and then say that we are upholding anti-trafficking in humans, or that we are enshrining protection for the rights of the child. Because, what is it to a newspaper to run an advertisement which will cost them \$3,000 and six months potentially? What is it? It is nothing. We need to look at the offences in this legislation, the original Act No. 67 of 2000, and we need to do a lot better.

Let us get to the operational aspects. The operability of any law is the essence to its efficiency, to its efficacy. We have in Trinidad and Tobago some of the best laws possible in the Integrity in Public Life Act. We do. Does the average person in Trinidad and Tobago believe that the Integrity Commission is capable of securing timely, efficient and meaningful results through its investigations? Perhaps not; not because of the will of the persons that populate that institution, I am sure; but rather, Madam President, because of the type of funding that it receives. Look at this: the Integrity Commission in the period 2010 to 2014 received a total of \$81,158,779. That is the Integrity Commission.

1.55 p.m.

Madam President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made. That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. R. Balgobin*]

Question put and agreed to.

Sen. F. Al-Rawi: Thank you. So, Madam President, we are looking at budgetary allocations. So the Integrity Commission in 2010 receives \$7.5 million; 2011, \$7.3 million; 2012, \$20 million-odd.

Sen. Maharaj: Standing Order 35(1). I thought we were looking at the Adoption of Children Bill and not budgetary allocations and Integrity Commission.

Madam President: Hon. Senator, please continue.

Sen. F. Al-Rawi: I think Sen. Singh just wanted to stretch his legs really.

Sen. Maharaj: I know we all look alike but—

Sen. F. Al-Rawi: Sen. Maharaj, forgive me. I was thinking so fondly of Sen. Singh. And what do you mean by I think you all look alike? What do you mean by that, Senator? Do not be churlish “nah”. Come on! We are talking serious business here. Sen. Devant Maharaj, taking the word “maha” seriously. Thank you? Yes.

Sen. Maharaj: Are you making fun of my name now?

Sen. F. Al-Rawi: Madam President, I do not know what has come over my learned friend. I pray for his soul to God Almighty. Please! Let us deal with serious business.

The Integrity Commission, in terms of efficacy, in terms of efficiency, well-intended piece of legislation, very good laws in Trinidad and Tobago. The adoption of children, equally good laws, equally good intentions. We have the Adoption Board, which we now propose to substitute out with the Children's Authority. But when we look at the budgetary allocations for the Children's Authority, 2012, \$8 million; 2013, \$18.7 million; 2014, \$21 million.

Madam President, we had the budget exercise concluded when we did the budget in September/October of this year and there were questions asked in the finance committee stage, ground-breaking questions, where answers were given back and I encourage all Senators and indeed the population at large to have a look at this information. Let me give, by way of comparison: Office of the Prime

Minister—Office of the Prime is a multifaceted institution. It deals with a number of Ministries in operation, one of which deals with child welfare, et cetera. When we looked at the Office of the Prime Minister, legal fees alone in that Office of the Prime Minister, are in fact way over the entire budget of the Children's Authority. That, Madam President, also includes legal fees for a mere handful of lawyers. When we look, Madam President, as well to—*[Interruption]*

Sen. G. Singh: Commissions of enquiry.

Sen. F. Al-Rawi: Sure for commissions of enquiry, as my learned colleague, Sen. Ganga Singh has said to us, and he is quite proper to say that there were two commissions of enquiry, now a third one and that these things are quite expensive. But what I am saying is, to get to the heart of certain burning issues, we as a nation look—and this Prime Minister would not be the only Prime Minister to have a commission of enquiry, or has had a commission of enquiry. But the fact is, when we look to how we as a nation spend our money, I am very concerned about the budgetary restriction to the Children's Authority. *[Desk thumping]* That in fact features in the Children's Authority's information brief and in their strategic plan 2012 to 2014. One of the weaknesses flagged out there is the fact that their budgetary allocation is very low.

I want to put that now into the system. In the system you will see, Madam President, that the Children's Authority in 2012 in its report, speaks about having two welfare officers and one supervisor. It says here:

Adoption within the system is processed and monitored by the Adoption Board and its staff who currently reside in the Minister of Gender, Youth and Child Development. This unit manages local adoptions in addition to casework arising out of international requests. The unit comprises one supervisor, two social welfare advisors.

The adoption board's services, staff, recruitment processes, are now going to be morphed into the Children's Authority. But for anyone that has practised in the family courts in particular, in the juvenile courts in particular, the number of requests and requirements of a probation officer are drowning in effect. We just simply do not have enough people to do the job. And if you look on to the streets of Trinidad and Tobago, look at the protest by Servol workers just yesterday, on the news telling us that a Servol teacher earns \$2,500 a month. Servol says that they are waiting on the Ministry of Education. The Ministry of Education says they do not know anything about it. But the fact is they do an important role.

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When we look to the Office of the Prime Minister, by way of disclosures to the Parliament, we will see one contract officer as an assistant to the Prime Minister earning a monthly salary of \$35,000 a month, more than any Senator receives here, certainly opposite, more than the Children's Authority staff would receive for an advisor. The fact is when we look to Trinidad and Tobago's expenditure, we have to ask ourselves: are we spending money efficiently and in the right places?

Madam President, again, in the Office of the Prime Minister, to tell you how much a Children's Authority would cost to run. Stick a pin for a moment. The Chief Justice is on record as saying it is high time for the Judiciary to have its own budgetary allocation and management, similar to what we contemplate in Parliament in the Acts of Parliament that we are now considering, where we have some degree of autonomy in expenditure and, therefore, scrutiny. When we look to these things, and therefore, autonomy to the Children's Authority in particular to carry out its job just by way of comparison alone, the Office of the Prime Minister spends, in the National Operation Centre, the National Security Council, \$80 million a year.

Listen to what salaries, stationery supplies, books, periodicals, telephones, et cetera, \$22 million for that alone. When we look now—I did not know that operations in the Office of the Prime Minister for the National Security Council included some \$57 million in operations. I did not know that it was the law of Trinidad and Tobago that operational requirements are carried out by the Office of the Prime Minister. So if you are going to take \$80 million to run a National Security Council for stationery and supplies, et cetera, how can \$7 million to the Children's Authority work? How can \$20 million to the Children's Authority work? How can it work? It cannot. And we as a nation, as a combined unit of parliamentarians, need to look to that efficiently.

Apart from that, how do we watch a Government in its position as this Government is? We have noble people opposite us, comrade/Senator, Senator/comrade Lambert is one of them; a man with long pants in the trade union movement.

Sen. Lambert: That is right.

Sen. F. Al-Rawi: That is right he says. Good point. It is true. But imagine this, how is this Children's Authority, in its supervision of the Adoption Board to be managed, when the Government itself has no clue who appoints a Permanent Secretary. [*Desk thumping*] A Permanent Secretary under the Constitution of the Republic of Trinidad and Tobago, Madam President, is absolutely clear. Listen to this.

Sen. Maharaj: Madam President, in my opinion he is wandering all over the place at this point in time.

Sen. Lambert: And he is getting away with it.

Madam President: Hon. Senator, in the interest of the limited time that you have left, I would advise that you confine your observations to the subject of the Bill, an Act to amend the Adoption of Children, 2000.

Sen. F. Al-Rawi: Madam President, that is precisely what I am doing. And insofar as your ruling has not told me that I am out of bounds, I will proceed with my relevance as is. [Desk thumping] And my relevance is that the management of the Children's Authority, in this Bill, in dealing with adoption as it will, in replacing the board, as it will, in these amendments, it is relevant to understand the persons opposite who propose to run the system. And I am saying, if the Constitution, by way of direct example prescribes, that in section 121 of the Constitution, that specifically 121(6), the power to make appointments on the transfer of the following offices shall vest in the Prime Minister, any office for Permanent Secretary. How do we deal with a Prime Ministerial appointment of Permanent Secretary for this Ministry, past Ministry that you had involvement in, Ministry of Gender, Youth and Child Development, et cetera, when you can have a communications Minister of the Government stand up and say: "the Prime Minister did not appoint nobody!" And then this morning you hear the head of the public service saying the Prime Minister in fact appointed the person. I mean, where does the truth lie? How do we trust a government to manage the adoption of children, to manage the appointment of a Permanent Secretary in this Ministry, if we cannot even get it straight from the head of the Government, through the Communications Minister, what the truth is?

But it gets more than that. What is on the table, Madam President? We have a Government—look in the *Trinidad Express*:

"Acting on advice of public service head..."

Ria Taitt Story created: February 23, 2015, headline:

"Creed PM's pick"

How does that add up to the Minister of Communications direct statement to the contrary? Does this Government know what it is doing? Has the hon. Minister De Coteau himself stood up and told this Parliament that he knows how his Ministry is going to be managed? Who appointed your Permanent Secretary, hon. Minister? Do you know? Does the Minister of Communications know? Is the Constitution to just be ignored like this? The fact is we are looking now to the operationality of the Bill.

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When we looked at section 40 of the Act itself, and we are looking, as that is proposed to be amended, to the fit and rubric of regulations as are prescribed to be made under the Act. What are we seeing, Madam President? The Minister may make regulations in the Act for the Authority requiring certain things to be done, et cetera. The penalty for that is only if there is a breach of fine of \$10,000 imprisonment for two years.

Madam President, let us look at this particular clause here. We have a Government that has runaway record for dismissal of people and dismissal of people with a cost.

We saw reported in the newspapers recently, that the cost of the Sport Company of Trinidad and Tobago firing people capriciously was \$5million. I am involved in litigation, which I would not speak about but suffice it to say to tell you that there are umpteen cases before the courts, and what does the Government do? It spends money on legal fees. We have the information here, Office of the Prime Minister alone \$20-something million in legal fees. When we look to the expenditure there, versus the budget of the Children's Authority, we are in trouble, Madam President. We are in deep trouble.

Where is the Minister's statement in this House or in the other as to the proclamation of the Children's Act? Where is it? When is it coming? How do we as a nation look ourselves seriously in the Minister and talk about the rights of the child, when we are afraid to deal with the age of marriage? How can we do that in this Adoption of Children Bill alone? We are talking about children under 18 being married, but a child is defined as a person under 18. How do we do this seriously, Madam President? Every dismissal, capricious as it is at the hands of this Government, cost the taxpayers of this country money. We pay for the folly, taxpayers of this country.

Madam President, when you look to the fact, this Government has shamelessly spent half a billion dollars on the LifeSport Programme, not to mention the Hoop of Life Programme, not to mention the scandal that exist in the Education Facilities Company, where the cost of building an early childhood centre is now six times the value. The fact is they cannot account for revenue that the Government has come into and has spent. We have serious difficulties in trusting the mind and management of this Government and we honestly hope that the Minister is taking notes on his phone as he is taking notes, I am sure, right now, on his phone; that he actually takes notes on the amendments that are meant to be taken into account here, in particular the three-fifths majority. I hope you have gotten that down noted on your phone, hon. Minister and that we can, as a Parliament, step forward to organize ourselves with the intention of Trinidad and Tobago being to look after our most vulnerable. Thank you, Madam President. [*Desk thumping*]

2.10 p.m.

Sen. Dr. Victor Wheeler: [*Desk thumping*] Thank you very much, Madam President. I will just be brief, after that impassioned contribution of Sen. Al-Rawi. [*Interruption*]

Sen. Al-Rawi: It was my 100th contribution in the Parliament here.

Sen. Dr. V. Wheeler: He says it is his 100th contribution. I want to congratulate him on that. [*Desk thumping*]

I just make a brief intervention on this, the Adoption of Children (Amdt.) Bill, 2014, and first of all to say that I am in general support of what is intended in this Bill. It is something to deal with certain deficiencies in the Adoption of Children Act, No. 67 of 2000 which has not yet been proclaimed, and to replace the Adoption Board with the Children's Authority, with respect to the responsibility for the adoption of children.

Madam President, I am aware that there has been extensive consultation in the preparation of this Bill. I am also aware that there was consultation with the Adoption Board as it exists now. There are just a couple areas that I would need clarification on, the first one being clause 7 of the Bill where it states:

“The Authority, when placing a child with an adopter, shall have regard so far as practicable, to the wishes of the parent, guardian or child, in relation to the religious upbringing of the child.”

I would like to have some clarification of what this means because, in other jurisdictions the intention is, if parents are going to adopt a child, they would try to have commonality between the religion of the parent with that of the intended child that they hope to adopt, so you avoid this problem. However, in Trinidad and Tobago where you have, as was stated by the Minister, so many children for adoption, and you may not have as many potential persons or parents to adopt, you may find yourself with proposed parents with one religion, and the child may be a different one. So I am just wondering, if you are going to say, “...shall have regard...”

Does that mean if the—okay, the child is, for example, Christian and is being adopted by Hindus, and the Hindu parents decide that they are going to involve the child in all the activities of their religion, and the child says, no. I mean, who really has the—or, which group has the final say? I would just like the Minister to, if possible, give some little clarity on that point.

The other thing I would want to comment on is on clause 8, where it refers to:

“...allow the Authority to waive the probationary period of six months required before an application can be made for an adoption order.”

I am actually in support of this because there are certain instances—for example, in surrogacy, where the father, well, a couple are trying to have a child. The mother or the wife or partner is not able to, and the father—there is an agreement that the person, or the man, will provide his sperm with another woman so that they can have a child. So the product of that is that the father is the biological father, but the partner of his will just be a stepmother, but not the biological mother.

So in instances like those, where it is obvious that the intention is for the child to belong to that couple, when the mother in this particular instance, or the woman applies to adopt that child, it would be quite reasonable to not have to wait this six-month period, particularly for example, if the woman is the breadwinner, and you can have issues with insurance for the child in the interim. It would certainly make sense to not have to wait that six-month period. So I am actually in support of this amendment to the Act.

The other area I would like to comment on is clause 27, where previously one person needed to be a national or a resident living in Trinidad and Tobago. Whereas now, with this clause, you can have someone who is either not a national of the country, or someone who is not normally resident being able to adopt a child, because certainly, with Trinidad and Tobago as a tourist destination, you have non-nationals visiting the country all the time.

We recently had carnival, and coming out of carnival experience, it is expected that there would have been consummation taking place in different forms. Out of this consummation, it is inevitable that pregnancy would arise. When the visitor leaves these shores and the woman, who is left with the pregnancy, may choose to put that child up for adoption, it may be beneficial—or there would be cases where the best person to take over the responsibility for that child may be the one who is not the foreign national, or the one who is not living here.

So I am also in support of this amendment to the Act because, at the end of the day, we want to make sure that when children who are up for adoption are placed, they are best placed with either a close relative, or someone who, it is in their best interest to place them. Again, the Minister has indicated that there are quite a few children who are waiting for adoption.

Of course, there is the concern like in some other foreign countries where children are sold. Of course, there would be the natural safeguards in this respect. The Children's Authority, I am sure, when they are screening potential persons who want to adopt children, will bear this in mind when they are making these recommendations.

So, Madam President, with just those few observations, I would like to say that generally, I am in support of this Bill before us. Thank you. [*Desk thumping*]

Sen. Diane Baldeo-Chadeesingh: [*Desk thumping*] Thank you very much, Madam President, [*Interruption*] and congratulations on your appointment as President of the Senate. [*Desk thumping*] I would also like to take this opportunity to welcome all new Senators. Whilst I am in a congratulatory mode, I would also like to indicate that Sen. Faris Al-Rawi presented today his 100th contribution in this honourable House. [*Desk thumping*]

Madam President, I rise in this Chamber today cognizant of our responsibility as lawmakers to do what is in the interest of all children in Trinidad and Tobago. And, by ensuring we effect the required legislation, we would not have served in this Senate in vain. Our purpose today is to amend the Adoption of Children Act, No. 67 of 2000, which has not yet been proclaimed, and to replace the Adoption Board with the Children's Authority.

Adoption, Madam President, is considered as one of the oldest social institutions. Adoption raises highly emotive issues because of its implications for the meaning of familial ties—questions on whether adoption serves the best interest of children, who is allowed to adopt, and the role of Government in regulating such decisions are frequent subjects of debate.

In Trinidad and Tobago there are, and I wish to quote from an article written by Sandhya Santoo on December 24, 2014, titled:

“T&T's adoption dilemma”

And she writes:

“EIGHT HUNDRED AND TWENTY TWO children without parents are living in orphanages across Trinidad and Tobago.

Twenty six more children are in the foster care system.

Every child has a story of surviving things no child should have to deal with.”

But what has this Ministry done in the last four years to reduce the incidence of these experiences through inter-ministerial collaboration as well as teaching and religious stakeholders? What has this Ministry done?

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“Unfortunately, less than one per cent of those orphans will ever be adopted. They will be wards of the State until the age of 18.”

—and then, they are left to their own devices.

Why is there—which brings the question—no proactive effort to encourage adoption? And why is the less than 1 per cent acceptable by the Government? At no time did the Minister identify a goal or a method to reduce the number of children in orphanages, or how the Ministry would facilitate adoption or improve or bring improvement to the quality of life of these children at the institutions.

I want to refer to another document. You know, my research, Madam President, took me to a lot of reading. But one of the things in preparation for this debate that steered me in good stead is the *Child Adoption: Trends and Policies*, this is the United Nations document, Economic and Social Affairs. It is from the Department of Economic and Social Affairs/Population Division. It took me to quite—I rather enjoyed this reading because it took me to Hindu lore. It took me to the Napoleonic Code. It took me to quite a bit of information, but one that I would like to pause for a moment and just highlight, just for reference, is Government’s efforts to promote domestic adoptions in Latvia. Just for reference:

“In Latvia, the number of domestic adoptions fell from 383...”—and I am quoting—“in 1993 to 27 by 2003 and, as a percentage of the total number of adoptions, domestic adoptions dropped from nearly 82 per cent to 25 per cent. The Government reacted to the situation by instituting a temporary moratorium on intercountry adoptions in 2000.

It also enacted the Law on the Protection of Children’s Rights, which restricted intercountry adoptions exclusively to adopted parents who were citizens of countries that had concluded bilateral agreements with Latvia...Recently, in an attempt to promote domestic adoption, the Minister of Special Assignments for Children and Family Affairs drafted amendments to four legislative acts, providing childcare leave and a monthly allowance of 1,495 Euros to adoptive parents.”

So different countries in different parts of the world, you know, did their research and they recognized how they can up persons adopting children needing that sort of system. But, Madam President, of the 26 children in foster care, only three in Trinidad and Tobago are in the process of being adopted, and this is back to the report of December 24, 2014. The facts are really interesting, but are given no context as to the situation and no analysis is forthcoming from the Minister.

The Ministry, I understand is also constructing a facility that will provide a home for children in these facilities after they have attained the age of 18. After five years, almost five years in Government, you know, on the cusp of a general election, this Government has now opted to give children and the process of adoption, the time that it deserves, on the twilight of their reign, Madam President.

2.25 p.m.

So, this article also outlines some of the reasons why so few children—remember I said 1 per cent—are finding a home and discovered that the problems are many and complex. One of the problems from this report says that there are issues stemming from the operations of the Adoption Board, which is why we are here to replace the Adoption Board with the Authority, to the Trinidadian culture, regarding how a man views the child he did not father. Another issue in the adoption dilemma which surfaced was that social workers who have counselled people seeking to adopt, say that couples lack the education and knowledge about the procedure and process of adoption, and, also, it is not the cultural norm in Trinidad and Tobago.

In addition, some couples have pointed out they may want to adopt children between one to five years old since older children become a little bit more attached to the orphan homes, but I also have another side of that that I will share as I continue my contribution today. But what is happening here in Trinidad and Tobago, which my research took me to, some persons find the adoption process quite difficult, and maybe, in some instances, that is a good thing for the adoption process to take place. They go around—and because of the long waiting period—they go around a different way of adopting a child, and one such is this, which almost frightened me:

“The biological mother, unable to financially provide for the child’s needs, seeks out couples in search of adopting. The prospective adoptive father now steps in.” The “person would swear an affidavit that the child is his and the biological mother allows the child to remain with”—the—“adoptive couple, hoping that the child”—could—“have a better life. Due to these difficulties, many adults longing for a child would rather remain childless.”—because of several things that crop up.

I want to get back to a part of this article that disturbed me quite a lot, and, well, I asked my Leader of my Bench how I should address this and I was given some counsel. So, I just want to quote directly from this article:

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“...Gender, Child and Youth Affairs Minister Razia Ahmed admitted to the Express that ‘there are only a few children in this system who may be up for adoption’.”

Now remember earlier it says 822 in orphanages, 86 in foster care system. She added:

“...that ‘about three children who currently live in foster care are up for adoption (and) are expected to move out of foster care in less than 24 months’.

Asked on how many children are up for adoption from orphanages,”—she says—“‘Community residences have not been monitored by the National Family Services...from the point of view of data, so we can only guess.’”

So, you know, that is the point. So we are guessing at this point, but, you know, it is strange enough, when I heard the National Family Services it jogged something in my memory, because I remembered when the St. Michael’s Home for Boys—there was the investigation by Professor Selwyn Ryan, the report.

I remembered that the National Family Services checked into the operations after the incident of boys of St. Michael’s school to be sent home after there was a whole host of different things, and I remember, quite specifically, in July of last year there was an article entitled, “Remove All 38 boys from St. Michael’s...recommends report on institution”. Remember that time, Madam President, where articles were all over the place stating that corporal punishment was the means used to discipline boys in this facility. Homosexuality was rampant, violence between boys were prevalent, mattresses were used as blankets in this institution, there were insects in teabags, in their tea, there were dirty dorms, and Professor Selwyn Ryan’s report, on page 279 of the report, titled it, “The Forgotten Lads of Trinidad and Tobago”, and only then and there did the National Family Services stepped in.

So, moving along, Madam President. I have to be getting used to that. Saying it will bring that familiarity. Trinidad and Tobago is a signatory to the UN Convention on the Rights of the Child. Consequent on signing the convention in 1989, all members of the UN pledged to support the principles of the convention by ensuring compliance in domestic law of the respective countries. The convention changed the way children are viewed and treated, in other words, as human beings with a distinct set of rights instead of a passive, or instead of passive objects of care and charity. These rights describe what a child needs to survive. These rights describe what a child needs to grow and live up to their potential in the world. They apply equally to every child, no matter who they are or where they come from.

The CRC, which is the Convention on the Rights of the Child, is the basis of all of UNICEF's work. It is the most complete statement of children's rights ever produced and it is the most widely ratified international human rights treaty in history. In Trinidad and Tobago UNICEF is the arm of the UN responsible for ensuring and enabling the proper observation of the convention. The Bill details the proposed amendments to the Adoption of Children Act, No. 67 of 2000, which would strengthen the authority and legal responsibility of the children to the Government. The Government, in turn, through the legal documents, would have the rights of the children protected, and any breaches to be dealt with swiftly and to be done effectively to prevent double jeopardy to the victims.

[MR. VICE-PRESIDENT *in the Chair*]

I wish to now, talking about breaches, I wish to refer to section 13(2), and it states:

“A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars and imprisonment for nine months.”

And section 29(3) as well deals with fines.

“Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section commits an offence and is liable on summary conviction to a fine of three thousand dollars and to imprisonment for six months.”

Mr. Vice-President, the breaches and penalties, we believe on this Bench, should be strengthened. Five thousand dollars and imprisonment for nine months is really not sufficient. I also want to address some of the other issues. I know Sen. Faris Al-Rawi was very, you know, he went into a lot of the other clauses, but I just want to make reference to a few that I thought needed the attention. Section 11:

“The Authority, when placing a child with an adopter, shall have regard so far as practicable, to the wishes of the parent, guardian or child, in relation to the religious upbringing of the child.”

Now, this in fact seems to be a hurdle because the potential adoptive parents may have all of the other requirements to be good adoptive parents, and the issue of the religious upbringing seems, in my opinion, an unnecessary burden, and I thought that was sufficient enough to rope that in.

Another clause that I wish to address is clause 12, section 2(b), that says:

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“The Authority may waive or reduce the probationary period mentioned in subsection...where—

(b) one of the applicants is a parent, step-parent or relative of the child, or has been a step-parent or relative of the child;”

When I went back to that report that I spoke about earlier, the UN report, you know, it indicated that adoptions by step-parents and other relatives account for more than half of all domestic adoptions. I think that is a step in the right direction to the legislation, because older children are difficult to adopt and after 18 they have nowhere to go, and so on. In the UN Executive Summary it also states that:

“Over 60 per cent of adopted children are under age five at the time of adoption.”

So, I think opening this up to step-parents, and so on, allows for some sort of consistency in the child’s life, and there are many instances where step-parents have proven to be good parents to children.

In clause 5, section 12(5) that is:

“Where notice is given by the adopter or the Authority under subsection (3), the Authority may, within twenty-one days of the date on which the notice was given, remove the child from the care of the adopter.”

I am not quite sure if it has to run for 21 days, because safety of a child is of paramount importance and, depending on the situation, I just have a little issue with the 21-day period.

In addition to that, Mr. Vice-President, section 13(1)—or, I dealt with that already. That deals with breaches and penalties, and I believe that they should be strengthened, and \$3,000 is not even close to a penalty for someone who might have committed that offence.

Section 29(3) also deals with penalties, the \$3,000 and imprisonment for six months, which I do not agree—that is less. Under section 35, it deals with overseas adoption, and Sen. Al-Rawi focused on this as well, but I just wanted to voice an opinion on this that we really ought to be cautious when it comes to allowing persons who are not from Trinidad and Tobago to adopt children because of the problems of human trafficking globally, and that is something that we need to take into consideration.

So continuing on, in order for the Adoption of Children Act, 2000, to not only be amended but also enacted and brought into law, there are complementary legislative Bills which must work together to have the desired effect and sustain compliance with

the domestic law and international conventions. That is like the Children's Community Residences, Foster Care and Nurseries Act, and so on, that will prevent situations like what happened at St. Michael's Home for Boys, and so on.

The amendment clearly positions the Authority as the duly legal body to whom adoption will be made their mandate. But I ask, Mr. Vice-President, is the Authority, at this time, operational? Is it properly resourced? How is the process to be made more user friendly? What of budgetary allocations? In 2012, the budgetary allocations to the Children's Authority was \$8million. Today, we could equivalent that with eight NGC fetes—\$8 million. That is the tickets for eight NGC fetes, Mr. Vice-President.

So, what is this? I mean, who do they prioritize really? The children of Trinidad and Tobago? They mouth very often that they are a Government for the children, but this is governance PP-style, Mr. Vice-President. [*Desk thumping*] What of the recruitment process of this Authority, Mr. Vice-President? Or is it still in need of comprehensive legal due diligence to ensure that it is functioning and can deliver the system for the adoptive process? While we are here analysing and proposing enabling legislation to the Children's Authority, it is yet to be assessed as fit and ready to engage individuals in the adoption process.

In the last year of this Government we had a Minister, I quoted before, admitting as to the system challenges which will impact directly on the process for the adoptive parents and child. There are many stumbling blocks in this system. Policy by "vaps" is not how the PNM does business, [*Desk thumping*] but it seems as though on the other side, with so many blocks—and they claim to have children at the front burner, at the forefront, but after four and three-quarter years they now saw it fit to bring this piece of legislation into the Parliament to deal with it, Mr. Vice-President.

2.40 p.m.

The entire process of adoption is such a delicate affair, and it is quite sad that even though the Ministers have all admitted how committed their Government is to children, we see the gaps in the management of adoption, which can leave a child scarred and more vulnerable than he or she was in the original home or community home, from which the adoption would take place.

Officials of this very Ministry of Gender, Child and Youth Development painted a very gloomy reality of the homes and institutions where the children are housed prior to the start of the adoption process. The environment is managed by agencies of the State, and we must question the protocols that have not been

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enforced. Why does the article list a litany of woes and no complementing documents to qualify the intervention that the State system successfully used in the areas identified? Why? Good governance, Mr. Vice-President, is about taking the area of service and motivating the professionals to develop assessments and interventions to support the adoption process, as well as the overall support to ensure no abuse of any kind befalls that precious little person.

Confused by the process and separation anxiety, a new individual becomes a new parent, and we hope that the Minister would explain what methodology consistent with international best practice is used and list the success rate to date. What is the strategic plan for such an adoption and what are the outcomes? Where there are negative outcomes, what supports the child, and where there are positive outcomes, how is the system entrenching the best practice from whatever area, as a goal for the nation?

I end by stating the community homes and adoptive homes can only be as safe as the guardians of the children the State is prepared to ensure. Much more is required, as well as stimulating the option of adoption as a positive human action.

Dorothy Law Nolte wrote in “Children Learn What They Live”, and I quote from her:

“If a child lives with encouragement,

he learns to be confident...

If a child lives with praise,

he learns to be appreciative.

If a child lives with...fairness,

he learns...justice...

If a child lives with security,

He learns to have faith...

If a child lives with approval,

he learns to like himself.

If a child lives with acceptance,...”—and friendship, he learns to find love in the world.

Mr. Vice-President, the PNM supports any legislation that improves the lives of children. The PNM has always put children first, [*Desk thumping*] and we

support this legislation to bring us in line with international best practice and standards, and will continue to work in the best interest of all our children.

Thank you. [*Interruption*]

Mr. Vice-President: I was informed that Sen. Kriyaan Singh will be speaking, but he has gone to the washroom. We are waiting; give him a few minutes.

Sen. G. Singh: We will take him after. [*Interruption*]

Sen. Elton Prescott SC: Thank you very much, Mr. Vice-President. I had already taken off my pads and was relaxing in the pavillion, [*Laughter*] anticipating a long innings from my colleague Sen. Dr. Singh. I suppose like every good West Indian cricketer, I have to be ready at all times to present my wares.

I am supportive of the steps now being taken to bring into line the Adoption of Children Act, 2000, in anticipation, no doubt, of its proclamation, but I have some observations generally about adoption and about the legislation itself.

I believe I could start by saying that I am of the view that parental responsibility, a concept which appears in the legislation, places a greater burden on all of us to treat with adoption as almost the last resource in the relationship between a parent and a child. And so, you would find that I am inclined to say that the process that leads to the adoption of a child, ought to be more stringent and to be more exclusionary than inclusionary. That is to say that it should lean more towards ensuring that parents exercise their fullest responsibility towards their children, and that adoption is the very last resort when, perhaps, through illness or incapacity a parent is unable to take care of the child.

So that, for example, one of the provisions in the Act that strikes me, and which I thought I should address almost immediately, can be found in section 15 of the Adoption of Children Act, where it says at section 15(5) that:

“Consent by the mother of the child is ineffective for the purposes of...”—making a child available for adoption— “if it is given less than six weeks after the child’s birth.”

I understand this to mean that a mother may not give consent to her child being put up for adoption, being made available for adoption, until a period of six weeks after the birth. It may well be—I do not know what drives it—some concern of the Parliament at the time that a mother within the first six weeks is incapable of applying her mind, in a balanced way, to whether she wishes to keep the child or not.

I have often heard the term “post-partum depression” used et cetera. But my thinking is, and I am commending this to those who have the responsibility for it and those who are thinking about adoption generally, that this period really ought to be a much greater period. That a mother who is contemplating putting up the child for adoption, should not be able to effectively consent to it under the period of a year, because during that period it is more than likely that the post-partum depression would have expired or deteriorated or disintegrated. It is more than likely that she would have come to a point where she feels a greater sense of responsibility to the child. It is more than likely that the affection that a mother has for a child, would have developed to such an extent that no one would dare to suggest to her that she might want to put the child up for adoption.

If that was the thinking behind section 15(5), then if the State, the Republic of Trinidad and Tobago, was inclined to the view that as a first step parental responsibility should be the optimum, then a mother will not be encouraged, and certainly will not be able to give effect to adoption, merely on the basis that she does not think she can manage. I am not knocking—if I may use the colloquialism—the female, but it is there that the work begins. It is there that the responsibility primarily should lie, because the mother has that umbilical connection to the child, and the fact of giving birth does indeed affect the mother’s balance. We ought as a State to be encouraging the mother and the other parent to take greater responsibility for their children.

I am not just pulling this out of the hat though, Mr. Vice-President. There is in the universal Convention on the Rights of the Child, certain rights that the child has and that the Convention acknowledges, and they include the right of the child to know its parents, and the right of the child to receive the love and attention of the parents. That to me is a facet of parental responsibility that we are overlooking when we move, as we seem to be doing, towards this structure of establishing adoption as the prime way of relinquishing the parent from its parental responsibility.

There is in our Children’s Authority Act provision for parents to exercise greater responsibility towards their children. I should like the framers of this legislation to take the time to reflect on what the Children’s Authority Act is saying, when in section 6 it makes the following observations. I will not read all of them, but it establishes the Children’s Authority and then it says that:

The Authority shall have the responsibility to take steps to “promote the rights of all children in Trinidad and Tobago”.

Indeed, it says:

“It shall be the duty of the Authority to—

(a) promote the well being of the child;...

(c) act as an advocate to promote the rights of all children in Trinidad and Tobago;”

As we had heard from Sen. Faris Al-Rawi earlier today, and it is accepted, those constitutional rights, including the right to liberty and the pursuit of happiness, et cetera, are rights that children have by reason of their being human beings living within this country. It is not only applicable to adults, it is applicable to every citizen.

So that when we speak of the Authority giving effect to the rights of the child, promoting the rights of the child, it must include those constitutional rights about which we are speaking. The Authority is then tasked, according to this Children’s Authority Act, with the following:

It must determine:

“...what is in the best interest of a child;”—it should:

“take into consideration—

(a) the love, affection, and other emotional ties existing between the parties involved and the child;”

It should look at the child living:

“...in a stable, satisfactory environment, and the desirability of maintaining the status quo;”

In short, we are saying in this piece of legislation, the Children’s Authority Act, that we ought to concern ourselves with children remaining within the parental embrace and that, in my way of thinking, is inconsistent with a piece of legislation that presents adoption as another way of treating with children. It is that that I am after, it is that I am advocating ought to be reduced, that thrust towards adoption as the way to avoid the manifestation of one’s parental responsibility.

The Children’s Authority is also required by section 6, in determining the best interest of a child, to consider:

“the willingness and ability of each parent to facilitate and encourage a close parent-child relationship between the child”—and the parents, and the child and other children—“the child and the other parent..”—as the case may be.

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All of these are meant to direct our thinking towards greater parental responsibility.

Permit me to repeat that I am urging that we ought to look again at whether we should not be less inclined towards adoption as a solution for any difficulty a parent may be experiencing. It could not be in this almost complete welfare society that we have, that a parent will not be provided for financially. We have even reached the point now where we have grants—“single mother grant” or something like that, I do not remember the name of it—but money is coming out of the wealth of Trinidad and Tobago to ensure that parents can at least fund the upbringing of their children.

2.55 p.m.

Adoption could not be a solution to a lack of money. Adoption has to be aimed at some other difficulty that parent may have. And for the time being, I am saying that it has to be some incapacity on the part of one or other of the parents or both. That is not financial incapacity. We are talking about some sort of physical disability which leads to a parent being unable to carry out his or her responsibility towards the child.

In the Bill we will see that there is an attempt to—well, pardon me—the amendment is being recommended which repeals section 15(6) of the Act. If you would bear with me, section 15(6)—section 15(6) in the Adoption of Children Act reads as follows:

“On the making of an order under this section, parental responsibility for the child becomes that of the Authority.”

Once again, I am railing against that treatment of the parental responsibility of the parent for the child. We ought not to be leaning towards taking that responsibility so lightly that can be reduced, removed almost irreversibly from parents. So, we look at section 15(7) of the Act which is not under amendment or repeal. It says:

“Before making an order under this section, the court shall satisfy itself in relation to the parent or guardian of the child that he has been given an opportunity to make a declaration that he prefers not to be involved in future questions concerning the adoption of the child...”

Let me repeat that:

“Before making an order under this section,”—for the adoption of the child—“the court shall satisfy itself in relation to the parent or guardian of the child that he has been given an opportunity to make a declaration that he prefers not to be involved in future questions concerning the adoption of the child...”

We are placing adoption at the point where the parent is saying, I no longer wish to have anything to do with this child. I do not wish to become involved at all. I am saying that a parent cannot make that determination within six weeks of the child being born. It cannot make a balanced determination about what the future should hold in respect of his relationship with the child within six weeks. I am placing it at a year, and there may be others who feel that it could be a shorter period, but it certainly cannot, within six weeks of the birth of a child, be the position that a parent who is balanced in his mind—his and her of course—will make a determination that I do not wish to become involved in future questions concerning this child.

There is also provision in the legislation for the court to counsel the parents about parental responsibility. It is my submission that the Authority ought to be given that duty to counsel parents about parental responsibility and the interest of the child before the Authority makes a determination that a child is available for adoption. To the point where the parent is finally called upon to make a decision, it must be clear to the parent that any division taken is now irreversible, irreversible to the point that you have lost entirely all contact with the child. There is no coming back later on. We have heard situations where a parent or a child becomes aware of the relationship between it and the adoptive parent, and then begins to make efforts to find the blood parent, the natural parent.

I heard recently of one such situation in Australia where the mother of the child that had been adopted—I am sorry, the adoptive mother, yes—the adoptive mother begun to encourage the child to make efforts to find the adoptive father, the natural father—pardon me. And using social media they were able to eventually get to the point where they knew where he could be found in Australia. He was conducting business as a farmer of some sort, and the child made herself known to the natural father. As it turned out, and some people may say it is a happy ending, the adoptive mother and the natural father found some—became enamoured of each other, and so they married and then the child therefore, found itself in a—[*Crosstalk*] the world had turned around for that child. But that is a nancy story as far as I am concerned, and it certainly does not merit the happy ending that people are likely to speak to when they hear marriage and children and love and those sorts of things.

My concern is that at the very beginning the decision to adopt insofar as it involves the parents, and it must in each case, in my view, in respect of both parents, that decision must have come after very long and very careful deliberation by a parent to whom every facet of his decision, the potential

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decision, is made very clear. It is made very clear by persons who are trained and expert in infant behaviours, psychiatry or what have you. So that when the parent makes the determination that I shall no longer have any interference, no longer have any involvement in the child's upbringing or its future, the parent must know that this is an irreversible decision, and must make that determination because he or she has had the benefit of all that one could possibly have presented to the parent to make that determination.

So, may I just say finally on that point that it cannot be in the child's best interest, therefore, for the parent to bring to an end the relationship without having first given the fullest consideration to what the future might hold for both the child and the parent.

Apropos of that, may I ask the hon. Minister to look at some aspects of the Bill which, in my view, ought to be taken into account? Firstly, clause 7. Clause 7 seeks to repeal section 11 of the Act which provided—which provides now that:

“The Authority,...”—shall in—“...placing a child with an adopter, shall have regard so far as practicable, to the wishes of the”—child—“parent or guardian...”—as—“...to the religious upbringing of the child.”

It limits itself to parents or guardians. The Bill now proposes that:

“The Authority, when placing a child with an adopter, shall have regard so far as practicable, to the wishes of the parent...”

—not both, as it used to be. We have not heard from the Minister as to why it has become necessary to limit it to one parent only. Let me repeat it.

“The Authority, when placing a child with an adopter, shall have regard so far as practicable, to the wishes of the parent...”

If it is a typographical error, it is of such great impact that maybe the Minister ought to look at it again and tell us, is it really intended that we no longer wish to have the wishes of the child's parents, and instead would accept it from one parent.

It is by analogy—may I just say, just last week I think I heard, it had been reported that a Minister of Government, the Minister of Education was inclined to a suggestion that we should have two or three days holiday after Carnival. Why? Because he thinks everybody wants that. And this is what this is saying. Because everyone thinks this is a single mother—forget it. We will just ask the single mother what should become of the child. Our society cannot demean itself like that. Let us set higher standards for ourselves. [*Desk thumping*] Why are we doing this?

So, I trust that that Minister would forgive me for bringing his business here. I hope the report was accurate. If it was, then he ought not to have said it. And if it was inaccurate, well then I am pleased to know that he did not say that.

So, Minister—sorry—Mr. Vice-President, through you, I trust that the Minister would assist us to understand the thinking behind saying, that it is the wishes of the one parent that would matter when the Authority comes to consider the religious upbringing of the child.

May I go onto another, please? Clause 8. Clause 8 provides as follows—in relation to section 12 of the Act, it repeals subsection (3) and substitutes something that I shall read. Subsection (3) as it stands at the moment reads as follows:

“At any time during the probationary period the adopter may give notice in writing to the Board”—the Authority—“of his intention not to adopt the child or the”—Authority—“may give the adopter notice in writing of the Board’s decision not to allow the child to remain in the care of the adopter. The Board shall give reasons for its decisions to the adopter.”

And 12(4) “Where the Board makes a decision not to allow the child to remain in the care of the adopter it shall give reasons for its decisions to the adopter.”

My focus is on the provisions in both subsections that the board shall give reasons for its decisions either to allow the child to remain in the care of the adopter or not to allow the child to remain in the care of the adopter.

What is proposed in the new legislation, in this Bill, is as follows: that the Authority may give the adopter notice of its decision not to allow the child to remain in the care, and there is no mention of giving reasons at all. We—this society is becoming more and more inclined towards equity in its provisions and to the balance of legal principles.

So, one needs to hear from the Minister, why have we created an authority which may so interfere in the rights of parents over their children, and in the rights of children in particular and make a decision not to allow an adoption, and then offer no reasons for it. It appears to me that is creating an environment in which people will need to go to court. We must find out why we are saying that these things are not to be allowed.

So, if the Minister would look at clause 8 insofar as it seeks to repeal section 12 subsection (3), and impacts on 12(4)—I am not sure that it does—and tell us why it is that the board will no longer be required to give reasons to an adopter for its decision not to allow the child to remain in the care of the adopter.

I think this might be a good opportunity for me to say that I agree with Sen. Al-Rawi that we have embarked on legislation in relation to children that is infringing on their rights, their constitutional rights and that both in terms of the substantive Act itself and of this Bill to amend it, that we need to insert the provisions that allow for a three-fifths majority when we pass the Bill.

Sections 16, 17, 22 of the Act, the Adoption of Children Act, offending sections in that regard, [*Desk thumping*] and I would urge the Minister to look again at those and to see if, given time, we can probably revisit both and then present something more full and less controversial to the Parliament for its adoption. Sen. Singh is back, so I will bring my brief sojourn into this matter to a close very shortly.

There is another provision of the Bill that I would wish to place some emphasis on at this stage, if you will permit me? It is clause 16 of the Bill which repeals section 23. I think there has been some reference to section 23 already, and I do not recall which speaker. Section 23 of the Adoption of Children Act, as you may recall, speaks to restrictions on adoption orders being made in cases where the applicant is under the age of 25 and in cases where the age difference between the child to be adopted and the adoptive parent is less than 21.

3.10 p.m.

What I am inviting at this stage is a comment from the Minister when he is replying, as to what was the thinking in 2000—if his researchers have unearthed it—behind these proscriptions on restrictions on making adoption orders. Why is it that a person under 25 is not permitted to adopt? And more importantly to me, what was the significance of maintaining the gap of 21 years between the adoptive parents and the child? And why now are we removing it altogether? At the very least we ought to be told in this Parliament, what is the new thinking. What is the new policy? What is the new science that leads the Minister to the view that an adoptive parent may be much younger or have a closer relationship, in terms of years, between himself and the child?

I assumed, when I heard a 21-year gap that it may have to do with some kind of protection of the child from an adoptive parent who is inclined, maybe, to interfere sexually with the child or something. I do not know all the thinking. I am very much inclined to find out, and I wish that the Minister would tell us, why is section 23 being repealed? And, in particular, what is the new thinking that informs the age difference between the child and the adoptive parent? Because we have not seen any legislation that says that when you go into adulthood you

cannot take care of children, you cannot be responsible for them. So, I would just make the point and leave it there for the time being in the hope that some sort of explanation would be forthcoming.

Mr. Vice-President, I am inclined to leave the other comments I have for the committee stage. There are some aspects of the Bill that might well do with a bit of refining and I will be happy to take part at that point. In the circumstances, I thank you for the opportunity to have contributed. [*Desk thumping*]

Sen. Dr. Kriyaan Singh: Thank you, Mr. Vice-President. First of all, I would like to thank my colleagues for allowing me to speak out of turn. I had asked to do so because by virtue of me being a temporary Senator I was not sure if I would be here the next time this debate continues, and just wanted to make a few points as it relates to my situation and with people I work with, with disabilities. [*Desk thumping*]

When I came here today I was called on short notice. I did not know what the topic of discussion was. I came and I sat down. I was listening to all the debates, excellent debates by all the Senators, and I tried to figure out how I could make an input into this as it relates to persons with disabilities. And it is by chance that before I came out the car I picked up this pen that I have here that says Harley Street Fertility Clinic, and what this pen represents, is that as a person with a disability, I myself have looked into the possibility of different forms of acquiring my own offspring or adopting a child.

So, there should be some provision in this law to ensure that persons with disabilities are not discriminated against in their applications to adopt a child, because internationally it is accepted that persons with disabilities are equal to and are allowed to adopt children. [*Desk thumping*] There is also evidence to suggest that they are better fit to adopt children and take care of them, particularly children with similar or comparable disabilities, and so there should be some inclusion in this Act to cover this area.

Now, the flipside is that of a child with a disability. I have been fortunate enough after becoming disabled, I have worked with adults with disabilities, I have worked with children with disabilities, and I have also worked with orphans with disabilities, children who have been cast away by their parents by virtue of their disability. And what I would like to see in this Act is that there is some insurance, or assurance rather, that parents who intend to adopt a disabled child are capable to do so to the best of the child's requirements, in that, they should be able to provide the best care, the best therapy, the best medication if needed, but

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further to that, there is an onus on this parent now to be responsible for the child who becomes an adult beyond the age of 18, based on the nature of their disability. So, it should be somewhere in this Act covered to ensure, again, that child receives the best care from the adopting parent.

My other point, again, has to do with persons with disabilities trying to have a child, and it was touched on by one of the other Senators, is the issue of surrogacy, and in Trinidad now we have fertility clinics that offer in vitro fertilization, and I wonder if there are the legal requirements to ensure that in situations where a husband and wife, or a man and woman utilize their sperm and egg and it is implanted in a surrogate, that on the birth certificate, who is going to be the birth mother, is it the surrogate and then the parents are required to adopt the child and go through an adoption process, wait a year to adopt that child? There must be some follow up in the other laws to ensure that this is covered. [*Desk thumping*]

Finally, based again on the work I have done with children with disabilities, a lot of who have cerebral palsy, I am of the opinion that any parent who is seeking to adopt any child should be subject to drug testing before adoption is granted. And these are just four simple points I would like to make concerning the law, and I thank you for your time. [*Desk thumping*]

Sen. Shamfa Cudjoe: Thank you, Mr. Vice-President. I thank you for this opportunity to make a contribution today. I must say it is very pleasing to see you in the seat again. Before I proceed allow me to welcome the new Senators and say that I look forward to your contributions, and all that would happen towards developing proper legislation for the people of Trinidad and Tobago. And in her absence I would like to congratulate Sen. Raziah Ahmed on being appointed the new President of the Senate. [*Desk thumping*] My heart smiled today when Sen. Ahmed opened today's sitting with prayers, the sound of her voice and just the ability to say Madam President. It feels good, so I want to congratulate Sen. Ahmed on her new appointment.

Now, Mr. Vice-President, I would like to make a short, hopefully short contribution. Many of my points have been mentioned by the other Senators, so I would try not to spend too long. So, today we are treating with the amendment of legislation to manage issues relating to adoption and foster care, and it was Nelson Mandela who said there can be no greater revelation of a society's soul than the way in which it treats its children.

Mr. Vice-President, I stand firmly by that statement, and it is in that light that I take today's topic very seriously. We are dealing with legislation to treat with the welfare of our children, and specifically the issue of adoption.

Now, adoption gives our most neglected and disadvantaged children the opportunity for a new start; a new start that they so desperately need to be transformed by a new environment filled with stability, and a new family filled with love.

So, the first issue I want to touch on is the lack of statistics available as it relates to any issue dealing with children, not just adoption. But I had the opportunity to look at the draft report of the Children's Authority and the way in which they intend to layout their plans and to become established, even though the legislation has not been proclaimed. They have a draft document that sets out step by step what they plan to do, and all the statistics provided in that document are between the years of 2003 and 2010, and we could not find in that document any statistic that deals with children, the abuse of children, crimes against children, and so on, after 2010. So, there is a dire need for modern and up-to-date research and statistics, information provided about children and the issues that affect children.

Because, Mr. Vice-President, if we are going to implement or if we are going to develop legislation for today's children to deal with today's issues, then we ought to be very much aware of what is taking place today. So, I want to call on the Minister of Planning and Sustainable Development, who is responsible for the CSO—Minister De Coteau, also, who is dealing with the Ministry of Gender, Youth and Child Development, to take a second look at this development and work together to try to develop some kind of measure to ensure that information and statistics related to children are provided to the policymakers and also to the Parliament.

Mr. Vice-President, I want to make a comment on some of the issues raised by Sen. Coudray. Now, as we make an effort to create modern legislation for a modern people, modern policy, even against the backdrop of this lack of information, Sen. Coudray had told us, we have come a long way. This legislation has been on the books for 10 years, and we have come a long way. My concern is, if we are making modern legislation that we must treat with the issues that affect us today, and that is the direction I want to take my contribution today. Sen. Coudray was sure to take us around the world, a little trip around the world, we went to Malawi, she told us about what is happening in China, what is happening in the UK, what is happening in Antigua/Barbuda, in Argentina, and a host of different countries, but was unable to give us a clear update as to what is taking place in Trinidad and Tobago.

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What was very interesting, Mr. Vice-President, is she made the point that—well, after Sen. Abdul-Mohan would have mentioned that we did not deal with issues of same sex adoption and so on, Sen. Coudray stated that, we know that there are issues and we would deal with them later as we come back to amend.

Mr. Vice-President, I want to place on the record, and I want to—you want to say something, feel free.

Sen. Coudray: Mr. Vice-President, I did not say as we come back to amend. I said in due course, as we go along and these issues come up, as they emerge, the legislation can be amended to bring those on board. Big difference!

3.25 p.m.

Sen. S. Cudjoe: Mr. Vice-President—thanks Sen. Coudray, but as the people in the street say, “same difference”. Because the issues that the goodly Senator is talking about that would emerge, they are already here. [*Desk thumping*] They are already here, and she is saying that they were here 20 years now, but here we are in this position today, the Government, the Opposition, Members of the Independent Bench, we are here today presented with this golden opportunity to create legislation to treat with our people today. It will be remiss of me to get up in the morning, [*Desk thumping*] not even get up in the morning, to leave Tobago last night and get to Trinidad 1.00 a.m. to come here to tell the people of Trinidad and Tobago that, “we go fix that later”. I did not get out of my bed and get on the plane and sit in the airport hours of delay to come here to do that. [*Desk thumping*]

We are the people that we have been waiting on. We are the people that we have been waiting on, [*Desk thumping*] because if we do not take this opportunity to do this today and we plan for somebody else to do it or hope that somebody else would do it tomorrow, they may come in and hope that somebody else would do it tomorrow. Here we are with this opportunity, what prevents us from having this discussion now? What prevents us from having the necessary consultation now? What prevents us from having the conversation, Mr. Vice-President? When we are talking about modern legislation, how could we as a modern people, as Trinbagonian from a multi-ethnic, multicultural cosmopolitan kind of twin island setting, Mr. Vice-President, not treat with these issues?

Mr. Vice-President, I can say, I played mas this year for the first time [*Desk thumping*] and if we are afraid to treat with same-sex issues, Mr. Vice-President, in that band it was woman on woman, man on man, and when man on man get together it is not for a hug up, it was serious, “boom, bam endless wuk”. [*Laughter*] And then they hold hands and go home after. [*Crosstalk and laughter*]

So, Mr. Vice-President, these issues are very, very current. If you are on facebook, if you go out, same-sex couples are out there living pretty much normal lives. And if you check the statistics throughout the region, in the US and so on, same-sex couples are adopting at a higher percentage, at a higher rate than heterosexual couples.

So, I cannot be befuddled as to how we can come here and speak about modern legislation and not treat with the issue of same-sex adoption. So some may say, do you have—*[Interruption]*

Sen. Nicholas: Would you give way?

Sen. S. Cudjoe: You want me to give way, feel free.

Sen. Nicholas: I am just asking if that is the PNM's policy. *[Desk thumping]*

Sen. S. Cudjoe: That is your question?

Sen. Nicholas: Yeah.

Sen. S. Cudjoe: Let me tell you, Mr. Vice-President, through—*[Interruption]*

Mr. Vice-President: Please, please, Senator, it is customary that when one wants to give way - If you have a point of order could you please state what is asked?

Sen. Maharaj: He just asked to give way.

Mr. Vice-President: You have asked that she should give way. Okay, go ahead.

Sen. Maharaj: Same-sex marriage.

Sen. S. Cudjoe: Mr. Vice-President—*[Interruption]*

Mr. Vice-President: I said, I did not—please, Senator, I said I did not hear the question that is the reason why I am asking. I did not hear. So please, if you have asked her—could you repeat the question?

Sen. Nicholas: Sorry, Mr. Vice-President. Mr. Vice-President, the question was simply, whether the hon. Senator was articulating PNM's policy on the issue of same-sex marriage.

Sen. S. Cudjoe: That is okay. He is free. Mr. Vice-President, through you, I am not—my feathers are not ruffled by the new Attorney General, you know, because he is new in many things: new, new, new, brand new, spanking new. Now, *[Crosstalk]* no, no, this is my time, this is my contribution and when you have your time you would speak. Mr. Vice-President, I am not afraid. *[Interruption]*

Mr. Vice-President: The Attorney General asked you permission to ask a question, and you allowed him. So therefore he knows it is your time, that is the reason why he asked. [*Desk thumping*] So therefore could you please—

Sen. S. Cudjoe: Mr. Vice-President, I was responding actually to the crosstalk of my very good friend, Sen. Maharaj.

Sen. Maharaj: Maharaj.

Sen. S. Cudjoe: Maharaj. We have a good, good thing going, Mr. Vice-President, “doh come between that”.

Sen. Al-Rawi: Tobago love, Tobago love.

Sen. S. Cudjoe: So, Mr. Vice-President, I want to get back to that point, because I am very cautious in following the debate in the Lower House and following the debate today, and when Sen. Abdul-Mohan posed the question, I was hoping that the next Government representative would have said something. It is not my duty to stand here and promulgate, this is PNM’s policy or this is this person’s policy. This is a conversation that we ought to be having as a nation. When I come here, or when you come here, when we come here we are not here to speak about our own issues or our own opinion we do not come here to represent ourselves. We have to speak on behalf of the people we serve. We have to talk to the church community; you have to speak to these same same-sex people.

So my question is, how extensive was this consultation if it has not happened yet? We need to create a position as a country, because part of Sen. Coudray’s concern in the newspapers and today was how cumbersome and how difficult the process was. And one of the objectives of today’s exercise is to make the process more clear and less cumbersome, and we have not stated explicitly or implicitly in our legislation or on the adoption board website as to the plain question. [*Crosstalk*]

Sen. Robinson-Regis: “Doh take them on.”

Sen. S. Cudjoe: Anyway, Mr. President, I want to say—Mr. President—

Mr. Vice-President: Mr. Vice-President.

Sen. S. Cudjoe: Mr. Vice-President, I want to say when we come here we do not come here to represent ourselves. I have lost my train of thought. I could get right back on track. We ought to have this conversation, because part of their concern is as to how unclear the regulations are. The point that I am making, Mr.

Vice-President, we have boasted today, our Government has boasted today that we are treading new waters, we are embarking upon new shores, where we are allowing foreigners to adopt local children.

[MADAM PRESIDENT *in Chair*]

Now the concern of Sen. Abdul-Mohan and the concern that many would have raised is we are now exposing these children to a new, to a larger pool of more unconventional families.

Now, Madam President, when you check the statistics in the US, you have CNN and some of the other international news houses reporting that same-sex couples prefer to adopt children from foreign countries and more so from Third World countries. We happen to fall in that bracket. So it must be a concern. So, Madam President, if we have not had our position on that yet, if we are presented with a couple who intend to—a foreign couple, a gay couple or same-sex couple who intend to adopt locally, what is our position? Or are we willing to end up in court for some kind of equal opportunity case because we did not state our position?

So these are things we ought to consider. No modern government or no modern politician or no modern anybody could stand before me or any young person here today to say, yes, this is modern legislation but you have not considered issues such as same-sex adoption, same-sex marriage, things of this nature. We have not had that conversation yet, Madam President, and it is something that must be considered. We have to have an answer.

So, Madam President, I have here a host of different newspaper reports from within the region and especially in the UK, in Australia and in the US about this whole matter, debate taking place right now about the issue of same-sex adoption. So we have our work to do, not somebody else in the future. We have our work to do. So allow me, [*Crosstalk*] thank you, Sen. Maharaj. Madam President, allow me to proceed to another issue—[*Interruption*]

Sen. Maharaj: “When she blush she does forget.”

Sen. Robinson-Regis: “Ey-ey.”

Hon. Senator: Sen. Maharaj, you know too much, you know.

Sen. S. Cudjoe: You would know. Madam President, as we are on the issue of international adoption and I spoke about same-sex adoption, I want to raise the issue of human trafficking, because there is a very popular international case

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where a baby boy was adopted and abused and then traded among a group of paedophiles. This is big business today, and CNN would have recently done a report on “baby farms” and so on.

So another issue as it relates to—another modern issue we must treat with is this legislation should not stand on its own. There are lists of other pieces of legislation and other issues that we ought to consider. Are we going to state whether or not people who have a history of crimes against children, sexual offences against children would be able to adopt children from Trinidad and Tobago?

Madam President, when this Government assumed office one of the promises they would have made is to ensure within their term - I want to be safe and say within their term - that a list of child offenders or sex offenders would have been provided a register, and, to date, that is still outstanding. So, I hope the Minister could update us as to the status of that promise.

Now, as it relates to the background checks and criminal records, I want to agree with Sen. Abdul-Mohan and I want to add that we need to do some research or state our position as it relates to people who would have had some kind of infraction or some history as it relates to criminal offences against children or criminal offences in general., that is including old people who marry 12-year olds too.

Sen. Maharaj: Old people who marry 12-year olds?

Sen. Cudjoe: So, Madam President, allow me to proceed. Now, Sen. Coudray would have spoken about these issues of same-sex adoption and surrogacy as if it were something that is international, something that happens only in the First-World countries, and she said, as these problems emerge we would deal with them. These problems are already here.

Madam President, I want to turn your attention to the issue of surrogacy. I was able to pull up several newspaper articles from the years 2014, 2013 and way back to 2008, of surrogacy in Trinidad and Tobago, where mothers are being paid as little as \$60,000 for a newborn baby. Here in Trinidad and Tobago as early as 2006, 2007, 2008, and now there are newspaper reports in 2013 and 2014 about surrogacy taking place alive and well and kicking in Trinidad and Tobago.

As a matter of fact, there are facebook pages for people who are looking for surrogate mothers specifically from Trinidad and Tobago. I was able to get on www.findsurrogatemother.com. There is also www.surrogatefinder.com where

you can find people like Carol from Chaguanas who said she is 35 years old and has had two children and then there is Anika from Curepe. And the full profile of these individuals are on the Internet.

So this is something that is very present if you are looking for a surrogate mother in Trinidad and Tobago. It is no puzzle. It is not rocket science. You get on to one of these and you search for them.

3.40 p.m.

Now, what are the provisions in this legislation to treat with the issue of surrogacy in Trinidad and Tobago today? What if a surrogate mother or somebody who would have had some kind of agreement with an adoptive parent, changes her mind after she has the baby, or in the last trimester? For surrogacy you can also look at gestational surrogacy. That is where the baby has no biological link whatsoever to the mother. What if that person decides to flee the country, or decides to change her mind after the baby is born, or in the last trimester?

So these are some of the things we need to consider, not later on, but as soon as possible, and I would like to encourage the Minister and the Cabinet, and all of us, to start having these kinds of discussions. We cannot be afraid of having discussions about same-sex adoption, or about these kinds of sensitive issues just because you are afraid that the Government or Ross—what you call them?—Ross Advertising, or whoever—may twist your words, Madam President. [*Desk thumping*]

I cannot be afraid. I have a responsibility to come here and speak on behalf of the people who depend on me to speak on their behalf, and if they want to twist my words, that would be their business, but I did not get out of my bed and come this far to abdicate my responsibility to the people of Trinidad and Tobago. [*Desk thumping*] I am not prepared to have the children of Trinidad and Tobago live in fear because of fear of losing a vote from a certain set of people who may be same sex or whatever. Madam President, that is not my concern. I have a duty and a responsibility to assist in developing legislation that is for the benefit to all of Trinidad and Tobago and to protect the little children who we say are the jewels of Trinidad and Tobago, and nothing and no one would stop me from doing what I took the oath of office to do.

Hon. Senator: That is right. [*Desk thumping*]

Sen. S. Cudjoe: So I want to treat, finally, with the whole matter of making this thing less cumbersome and easier to follow. When you get on the website for the adoption board, there are some regulations or some directions on the adoption board website that, in the last amendment done in, I think in 2007, we have already cancelled

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those things and they are still present on today's adoption board website. So we need to update the website so that the instructions and the advice available on the website are clear to all those who intend to adopt.

We also need to embark upon a serious education campaign to educate our people about the importance of adoption, the seriousness of adoption. And just the fact that somebody has chosen to adopt a child, it does not necessarily mean that the person is infertile. It may be the person is ill, or some young women might not be willing to undergo the kind of stress and trauma that you put your body through by having a baby, and there are people like that. And even if you are infertile, maybe God had a different plan for you, to bless some other child.

So we need to be a little bit more sensitive and understanding as it relates to the whole issue of adoption. We need to, of course, educate our men about the role they play, not just as fathers or just biological fathers, but as men in our community and in our society and their responsibility to carry us and to lead us and to love us the way that they should.

The Caribbean man—or should I say many Trinidadian, and I think I could safely say Tobagonian men—some of them would not marry a girl if she is unable to have a baby, or some marriages break up simply because the young lady is unable to have a baby biologically. Why not examine the option of adoption, or examine the option of surrogacy? But at the end of the day they want to say, nobody wants a jacket. We need to change that mindset, and maybe that should work out to the best interest of our people and our children. Maybe we can have more adoptions to report rather than the statistics—or rather the information that was provided that says less than 1 per cent of these children would be adopted.

I want to stress also on the need for the support services throughout the entire process of adoption, the pre-adoption process that prepares the natural parent and the adoptive parent, to help them work out their agreement as to the kind of contact and how long the interactions would be between the parents and the level of openness between the parents and with the child. We need to also look at regulations as to how we deal with children who have other siblings in the same age group that are also up for adoption.

A part that is very important to me is the post-adoption services, that we need to strengthen or develop our ability and capacity as we embark on this, as we tread these new shores as it relates to adoption because we are looking here at following up within six months. For the most part, adoptive parents know when the social worker is coming. Maybe we can do surprise visits or something of that

nature; surprise visits or over a couple of years because there are cases here in this country where children were adopted and used as house help—here in this country. There are other troubling stories to tell as it relates to adoption in this country. Children being adopted to perform sexual favours for the handicapped or people who are confined to a wheelchair. There are all kinds of stories you hear when you go to the hair salon.

Madam President, these issues are real, and these issues are happening now, and we must do all within our power now. We may not get everything done, but there is something that we can do. We could start the ball a-rolling and we cannot be afraid to stand up and do what we ought to. We cannot abdicate our responsibility.

I wanted to deal finally with the issue of re-homing. This is a new trend in the whole adoption industry. It is happening a lot in the US and in the UK, where somebody would have adopted a child and then decided, after a couple years or a couple months, that they are not comfortable; it is not a right fit or a right match, and they are then sending them out to different homes—private homes—or putting them up for sale, or sending them to other parents who are unlicensed, parents who were not investigated.

So after your six-month follow up, you have no clue what is happening with this child. That child might as well have been sold to some other family or sold into some kind of sex ring or some kind of gang or something of that nature, and that is the practice of re-homing. The Donaldson Adoption Institute in the US has just completed a study on re-homing and they are exploring measures to treat with the issue of re-homing. But I think re-homing is something that should be prevented and prosecuted.

When somebody adopts a child and makes that pledge or that vow to keep that child until that child is 18 years old, if after a point in time they are no longer comfortable or they think it is not a good fit, they should be able to call social services, or call the authorities to have that child taken back. I know that there are provisions for that in the legislation, but I think when they sell that child or put that child over to another family without authorization or without informing the authorities, then that should be a criminal offence. I have come across advertisements on the Internet that treat with re-homing, and I will give you just two examples. The first one is, and I quote:

“‘Born in October of 2000 - this handsome boy, ‘Rick’ was placed from India a year ago and is obedient and eager to please.’”

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“We are looking to rehome an African American/Caucasian little girl who was adopted at 3 years old in a private adoption.”

The second one is:

“She is very small for her age, somewhat immature (her interests are more like those of an 8 or 9 year old girl—she loves crafts and animals etc), she’s behind in her schooling but mainly that’s because of her victim mentality (school work is too hard boo hoo Hoo) but she’s very sweet and quiet and obedient.”

And these are parents who would have adopted children who are trying to re-home them with another parent or sometimes in some kind of ring or another home. So I really think this is a terrible practice that we should condemn and I think it should be a criminal offence in our courts. [*Desk thumping*]

So, Madam President, since we are now engaging in international adoption, I hope that we can develop stronger bonds and a stronger level of cooperation between the Caricom countries, at least, or the other countries with whom we engage in adoption services, to ensure that follow up takes place. Because, most often, when a child is sent to another country there are no means of following that up, even for the six months after. So there is a need for international cooperation to ensure that the best interest of the child is looked after.

As it relates to issues of openness and helping the child to settle in with the new family and for the surrogate mother or the natural mother to deal with it—because sometimes it is a very emotional and psychological, sometimes traumatizing activity—social services or the Children’s Authority would need to follow up with these parents to make sure that it is a smooth transition and that everyone can benefit and feel comfortable in the end.

So, Madam President, I want to thank you once again for the opportunity. I hope that the Members on the Government side, and the Minister, would have at least considered the recommendations of the Members of the Independent Bench and of this Bench. We may not be able to do everything but whatever little we can cooperate to do for the best interest of people of Trinidad and Tobago and for the proper development and the improvement of the quality of life for our children, I think we are all here for the same cause. We may throw words across the floor, but I think we are all here to make Trinidad and Tobago a better place, not just for ourselves, but for the little children.

Madam President, with those few words, I thank you. [*Desk thumping*]

Madam President: Sen. Dr. Mahabir.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Madam President, and as all preceding speakers indicated, I, too, would like to commend you for your elevation and I will miss you in the lunchroom because now you would have your own dining quarters and we will not have the benefit of the interactions that you had, and I must say it was certainly very pleasant interacting with you as a Senator, and now I know it would be wonderful to have you sitting in the Chair. Also, we will, of course, miss our preceding Chair, Senate President, who, of course, did have to put up with a lot of rancour sometimes in this House, and at some times, a little bit of chaos and who managed to handle it with a certain aplomb. He did that with distinction and I want to recognize him as well. [*Desk thumping*]

All Senators who are no longer Members of this honourable Senate—that is the nature of the game—they, too, shall be missed. As I indicated, I always miss the interactions of former Attorney General Ramlogan and my colleague, Sen. Al-Rawi and former Sen. Fitzgerald Hinds and, of course, the Opposition Bench too has had its share of rotation.

And we in the Independents have had our own share.

3.55 p.m.

I recall coming in myself under a cloud of some kind of national controversy, and I hope that a year later we have been able to give a reasonable account of our presence in the Chamber. So that, there is rotation and within a year it is interesting that a number of new faces have come, a number have gone, but, Madam President, the business of the country continues and all Senators who are here are fully committed to the wider interest of the people of the Republic of Trinidad and Tobago, and in this context, I want to say, I rise to support this particular Bill.

It is indeed a Bill that I think is relatively non-contentious in objective and in intent, and any particular Bill, of any Government, which is aimed at improving the welfare of children in our society is something that I think Members of my Bench and I, in particular, will provide total support and full support, and we, of course, look forward to when the Government can bring some legislation with respect to the regulation of homes for the elderly. So we are looking at the most vulnerable in our society, people who really do not have the wherewithal to pursue their own interest and we act on their behalf. So when we look at issues such as child abuse, we understand that there is also elder abuse. When we look at

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the vulnerability of children, we know that our senior citizens also are sometimes in the same predicament. So that these particular measures will, I suspect, engage the attention of the members of the Executive, and legislation such as that I think will be relatively non-contentious and should seek relatively easy passage too in this Senate.

I have some concerns with a few sections, and the concerns are really to clarify matters so that we really can focus on the issue of the welfare of the child. Let me focus, Madam President, on the sections with which I have some concerns: 9, 12, 13 and 24. I will relate to them as I proceed. In section 9, it states that:

“(1) No person other than the”—Authority—“shall make arrangements for the adoption of a child.”

That seems innocuous and it seems relatively non-contentious. It states in 9(2):

“For the purposes of this Act, a person who takes part in the arranging of an adoption...”—and it continues—“is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for two years.”

I understand the mischief that this particular 9(2) is meant to address.

Let us go on to 9(3):

“For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of the child, enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the child by any other person...”

This is where some concerns were raised in my own mind and that is based upon the debate which has gone before, there is this change now and this practice, this medical practice, of surrogacy. It was raised by my colleagues, Sen. Dr. Wheeler, Sen. Cudjoe, and it seems to be growing in importance.

Growing in importance because one, it is medically feasible and, two, there is a demand by couples for the facilities of surrogacy. What are these? Either, Madam President, the surrogate mother shares some DNA with the child, in that her egg is being used; or it could be that she shares absolutely no DNA; she is simply the carrier of a fertilized egg to term and upon the birth of the baby, the baby is then transferred to the parents. When I read 9(3) and I see:

“For the purposes of this Act, a person shall be deemed to make arrangements for the adoption of a child if he, not being the parent or guardian of”—this—“child, enters into or makes any agreement or arrangement for...facilitating, the adoption of the child by any other person...”

So, in the issue of surrogacy we now have a third person. This is a woman who has agreed with two other people. She has entered into an agreement with two other persons to bear a child and then, subsequent to the birth of the child, to make the child available to them for adoption. My reading of 9(3) makes this act of surrogacy, whether the mother shares some DNA or not, an illegal act because it is an arrangement for an adoption that is not being made by the adoption authority. It is a private arrangement by three people, and in this arrangement, Madam President, there can be a transfer of resources. The couple who will eventually adopt the child may agree to transfer resources to the individual, the woman who is bearing the child, who is carrying the child to term, either for her inconvenience—as Sen. Cudjoe said, it is difficult to carry a foetus for nine months. I imagine she is correct, I do not know; but it can be, I imagine, a very demanding process, and then there are some women who will also do this in exchange for a financial consideration and it is here that we need to clarify Government's policy.

The hon. Attorney General asked an important question: what was the Opposition's policy with respect to same-sex marriages, relationships and unions? That is a very interesting point. I will want to make some comments on that, but really the Government of our Republic, presenting this Bill to us, should articulate a position on surrogacy [*Desk thumping*] and in articulating this position it should then indicate, well, either we are in total disagreement with surrogate mother arrangements or we are in agreement.

If the Government is not in agreement with those arrangements, then we need to clarify because my reading of 9(3) makes this kind of arrangement illegal—punishable by a fine and imprisonment for two years. So is it that surrogacy is, according to the contemplation of this Bill, an illegal act? I am advancing that it should not be, and if it was an oversight then I am recommending, Madam President, the following amendment which I hope to raise in the committee stage, but it would only become relevant once the Government has articulated its own position on surrogate motherhood.

Before I come to the amendment, Madam President, I raise this issue because of a case which is making the Internet news in Australia. This Australian couple entered into an arrangement with a woman from Thailand to have their fertilized egg nurtured by her and she dutifully gave birth to the baby. Nine months later it turned out that the baby is diagnosed with Down syndrome. The Australian couple decided they did not want this baby anymore, so the surrogate mother has decided she will now keep the baby although the baby has Down's syndrome. What is the Government of Trinidad and Tobago going to do about this situation? This is what I am recommending. I am recommending the following:

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All adoption arrangements relating to surrogate motherhood shall be approved by the Authority.

We specifically mention it in the particular piece of legislation before us. We know of its existence and I am proposing to make the law a bit tighter to prevent misunderstandings that we are seeing across the world. To make the law relevant, I am proposing that we explicitly mention it in the Bill and we state at the outset, that any individuals wishing to enter into this arrangement must have a meeting with the Adoption Board and let the Adoption Board supervise the process. If we do that, Madam President, I am of the view that it is not going to be a criminal act in Trinidad and Tobago, and also that any difficulties which may arise because of disagreements in this private arrangement will in fact have been sorted out by the adoption agency prior.

Let us now move to sections 10 and 11, though I do not have much concerns here. You see, the issue was raised, again, with same-sex couples adopting children. As a society, you see, we are in an era where information is available to us in what is called real time, and when something occurs in the State of Nebraska we know of it now. If there are gay marriages there, we, of course, see it here and there is a gay and lesbian community in this country. Let us not act as though it does not exist. We need to recognize the presence, and also I want to relate this to our position on decriminalizing marijuana cannabis. It is something that is being done across many states now in the north and in Europe. We would like to know what is Government's policy and Opposition's policy. Certainly, on the Independent Bench, I can only articulate my own policy. My own policy is, well, if the thing is good for cancer, let us try to dispense it so that it is one more piece of medication in the armament against the fight against cancer pain and so on, but it is important for us to start the dialogue.

You see, this particular Bill I think is very interesting. We are starting the dialogue on some very interesting developments in an era now of changing views and in an era of rapid information. As it is stated in *Alice in Wonderland*:

“‘The time has come,’ the Walrus said,
‘To’—speak—“‘of many things:
Of...ships’—and sails—“‘and sealing-wax—
Of cabbages—and kings—
Of why the sea is boiling hot—
And whether’—dogs—“‘have wings.’”

You see, we have to talk about all of those strange disparate diverse things now because they are before us, and what I was very pleased to see in the Bill is that while it does not specifically recognize the possibility of a gay couple or a same-sex couple adopting a child, it does indicate in section 10 that:

“In making arrangements for the adoption of a child the”—Authority—“shall—

(a) have regard to all the circumstances and first consideration shall be given to the need to safeguard and to promote the welfare of the child;”

It does not say anything about the sexual orientation of the parents. So the law I think is cleverly silent on it. And if the country is not yet ready to recognize and accept the phenomenon of same-sex couples, at least the law as currently written and the Bill before us as currently drafted does not exclude, as far as I see it, the idea of that kind of adoption taking place in the Republic of Trinidad and Tobago.

It further goes on in 11, Madam President, to say—and I do not want to take too much time because my colleague Sen. Vieira, I know will have to speak, so I will have to move on—:

“The”—Authority when—“...placing a child with adopters, have regard so far as...practicable to the wishes of the...parents”—the guardian or child in relation—
“to the religious upbringing of the child.”

I think that this might really be a bit excessive. I did not know we were placing so much emphasis on religion when, in fact, rather we should be placing emphasis on the welfare, a happiness, the comfort of the child.

4.10 p.m.

And it could very well be, as Sen. Wheeler indicated previously, that you could have parents of different religions and it is going on all the time in Trinidad and Tobago. We have people from various areas of society getting together to form households: Muslims and Hindus; Hindus and Christians and Catholics and Jews and whatever it is we have, and it does not seem to affect the fabric and the children in those family units tend to grow up with a knowledge of both religions. So that imposing the religious upbringing might be a little bit, in my mind, excessive but that is something, of course, for the Government to think about and for the Minister to pronounce when he is winding up.

Let us move to the concern I have with clause 12. In clause 12, we are focusing on reducing the probationary period. We are saying that an exception will be made, that is the probationary period will be shortened if one of the applicants is a parent, a step-parent or a cohabitant of the natural parent. Again, I am simply thinking that why give

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the cohabitant of the natural parent any preference on the queue, the step-parent, when it is the step-parent has a bond with the spouse, the cohabitant has a bond with the spouse, not necessarily with the child. And I think that if we could remove the cohabitant and the step-parent, we still are not denying them a place in the queue higher up because under 12(d), it states quite clearly, if the Authority is satisfied that it will be in the best interest of the child to do so.

You see what 12(d) indicates is that if the Authority is satisfied that it will be in the best interest of the child to do so, the probationary period will be shortened. It is not giving the step-parent or the cohabitant any prior place in the queue. It is simply stating that they will have to judge the thing on a case by case basis, and if it is deemed in a particular case by the adoption board, by the adoption authority, the Children's Authority, that it is in the best interest of the child for the probationary period to be shortened, then, in that situation, they will allow the probationary period to be shortened in relation to the step-parent or the cohabitant.

But, I hold the view that we should not be giving the cohabitant or the step-parent any place higher up in the queue unless there is good, sound, solid justification for so doing, and I cannot see the justification for giving these two categories any kind of priority. Because if they are to be given any priority, it is already covered in 12(d) where the Authority will hold the view that because the cohabitant is such a good parent, such a kind caregiver, because the step parent has proved himself or herself, we will shorten the probationary period, but I think they must prove themselves. They must prove themselves beyond all reasonable doubt that they are really outstanding parents before we alter their place in the queue, and I think it would be—from where I sit, the Authority should be in the best position to make that particular determination, not the fact that they are step-parent or cohabitant.

Madam President, let me move on to section 13 and in subsection (3), it says that:

- “(1) Before an adoption order is made in respect of a child who has been in the care and control of an applicant—
- (a) for...three years preceding the...”—applicant—“or
- (b) for substantially...or most of his life, no person shall remove that child from such care and control of the applicant against the applicant's will...”

You cannot really remove the child from the care of the applicant against the applicant's will and:

- “(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars...
- (3) Where a person is convicted under subsection (2), the Court may order that person to return the child to—
 - (a) the applicant;”

But, I am simply wondering where we have to wait for a conviction. Here it is someone has removed a child who has been living with the applicant for three years or for most of his life, and he was not authorized to do so, and are we waiting for a conviction before we place the child back with the initial caregiver? Why not simply indicate in the law that as soon as this person is charged? I know in the summary courts, the convictions can take place pretty quickly but we are dealing with a child here, it may be a dramatic experience, this child has been living with an individual for three years or most of his life, and where is the child going to be if we are waiting for a charge for a conviction? Is he still with the individual who has taken the child away illegally or alleged illegally?

I would say as soon as someone has been charged with removing a child from a position where he ought not to be, then we replace—we send the child back to where the child belongs while we await the trial and so on. And if it is deemed, well, he has been convicted, pay your time; and if it is that the conviction is overturned, then we know what to do subsequently. But in the interest of the child, I think as soon as we charge the person because it is a serious charge when the police comes and says, “You have taken this child and you have no authority”. I think, as soon as that happens, child is traumatized, go back by the person with whom you were comfortable. It is in the interest of the child, but that, again, for the Government to consider.

Madam President, 4.16 p.m., let me see if I can wrap up in a minute and a half so I will give way to my colleague who has lots more to say on this matter.

Let us move on finally to section 24 and in section 24, I want to focus on 24(2)(c) and (g).

- “(1) An adoption order shall not be made—
 - (a) except with the consent of every person who—
 - (i) is a parent or guardian of the child...”

So, under 24, we are saying that an adoption order will have to be made with the consent of certain individuals. We agree with that. We, however, move on to 24(2) where the consent of these individuals who have a right—a moral and a spiritual and a God-given right, to say I will give this child up for adoption, we are looking at how these rights are to be waived. Let us look at 24(2), it says:

“Notwithstanding subsection (1), the Court may make an adoption order where the Court finds that the parent—

(c) is withholding his consent unreasonably;”

You know, Madam President, I do not know what it means. What does unreasonably withholding of your—this is your child, you are the parent of the child. What is the unreasonableness of this? I would like to see this being changed to something like the following:

The court may make an adoption order where the court finds that the parent is unable to care for the child and yet withholds his consent.

You see, if it reads like that, that the court may make an adoption order, the parent is refusing, but what I have in mind, Madam President, is that the parent is incapacitated. He loves the child but he really cannot look after the baby. He may be bedridden, he may be basically someone who is physically unfit, not mentally unfit. And, in this context, I am saying that when we are talking about the unreasonableness of withholding his consent, I would like to add some substance to that. So again, I reiterate, I would like to see 24(c) change from “is withholding his consent unreasonably” to “is unable to care for the child and yet withholds his consent”.

Let us move to 24(g). Section 24(g) says:

“Notwithstanding subsection (1), the Court may make an adoption order where the court finds that the parent—

(g) is a person whose consent ought, in the opinion of the court, to be dispensed with.”

Well, I do not like it at all. I do not like it because I think we are giving the court a power that I would like to have as a citizen. And what does “in the opinion of the court” to be—what does it mean? For me it means that, notwithstanding subsection (1), the court may make an adoption order where the court finds that the parent is unfit for the role of parenting. Now, if we say that, then it puts the onus on the legislators to define what an unfit parent is.

Madam President, I raised this—I saw the movie *Salaam Bombay* a long time ago, and in that movie, there was a woman who was a prostitute. She had a daughter, she looked after the daughter well, but the social worker indicated, you cannot have the child because the court indicated that your opinion ought not to count. That is something—a mischief I want to avoid. I would like the court to be able to make that determination, to usurp the right of the parent once it could be proved definitively that this particular parent is an unfit parent, but we must define “unfit parenting”. Once we do that, then I know it is going to be fair for the parent and it is going to be fair for a society where we give the courts the power because the court then has some objective criteria on which to use to ensure that it will eschew and give up the requirement of the parent giving his own approval.

Finally, on 24(3), it says that:

“An adoption order shall not be made upon the application of one of two spouses without the consent of the other, (unless they have separated and are living apart from each other and the separation is likely to be permanent);”

Well, I do not know if separation is either a necessary or a sufficient condition to say we do not need the permission of the other parent. I would like to see a change, and all of these amendments, Madam President, I have tabled and I hope to raise in committee stage. I do not think separation—the fact that people are separated is sufficient to deny parental rights. I would like 24(3) to continue:

An adoption order shall not be made upon the application of one or spouses without the consent of the other unless they have separated and are living apart from each other and the separation is likely to be permanent and—

And I continue:

the spouse has had minimal contact with the child and the court is satisfied that the spouse is unlikely to play an active role in the future care of child.

And if we are to tighten in that way, then I will be very comfortable from the Independent Bench saying that in that situation, we will dispense with the approval of the spouse who has separated since he has little or no contact with the child.

There is much more to say, Madam President, but, again, with these amendments, I think that—and I put it out for Government’s consideration. I will be supporting this Bill and I hope the Government will give the amendments some consideration so we can produce, perhaps, the best law that we can, at this time, in the interest of the children of our Republic. I thank you. [*Desk thumping*]

Madam President: Hon. Senators, by agreement of all sides, the House will continue sitting until the next speaker completes his contribution to the debate. We anticipate it will be a short contribution. The Senate recognizes Sen. Vieira.

Sen. Anthony Vieira: Thank you, Madam President, and I thank you for allowing me to speak. I shall endeavour to keep my contribution to around 20 minutes, no more than that.

Madam President, this legislation is bittersweet for me: sweet because it is legislation I have been hoping to see enacted for many years now; bitter because had this legislation been brought sooner, who knows how many children might have benefited - children deserving of the opportunity for a better life but because of tardiness and delay on the part of the powers that be never got that chance. The Adoption of Children Act was assented to on October 12, 2000, at the dawn of this century and yet 15 years later, we are still operating under the old 1940s legislation.

I remember as legal consultant to the Minister of Education during the NAR administration helping to draft consents and releases for the hon. Minister so that children at the St Dominic's Children's Home also known as the "Belmont orphanage", which, at the time, fell under the school system, could be released for the purpose of adoption. I vividly recall meetings with the manageress of that institution, where they complained—complained bitterly about the challenges faced by the institution and the deficiencies in the adoption system.

4.25 p.m.

Madam President, that was over 25 years ago. I also recall the head of an international mission who, during his posting here, had taken into his and his wife's care, a child who had been found abandoned in the cane fields. And then, when his term started drawing towards an end, on the eve of their having to repatriate back to their homeland, realizing to their abject disappointment and chagrin that our law would not permit them, being non-nationals, to adopt in this country. Now, this is after they had bonded with the child and that child had bonded with them. Clearly, Madam President, our law, the law as it stood then, failed them and it failed the child that he and his wife had grown to love. And that is the law that we are seeking to change here today.

Indeed, there can be no irony more tragic than people wanting to adopt a child in need of a home, having to give up in frustration, particularly when as we have heard, from the hon. Minister De Coteau, that finding enough prospective adopters is a challenge.

Perhaps I can put this in sharper context and perspective by sharing with you another situation that I am aware of, going back to 2003. That situation involved a Trinidadian wife, US husband residing abroad; a couple that were unable to bear children. I want to say that is not an uncommon position today when so many of our women have sacrificed their childbearing years for the sake of their education and for their career and then when they are ready to have a child, find out that they cannot. This couple desperately wanted to have a child of their own. It was an interracial couple, Indian/African. The wife held a very senior position in a very top company. He was a loving husband. They were financially well off.

That childless couple dreamed of having a child from Trinidad and Tobago, from the land of her heritage. That couple had been carefully screened and approved by the department of human services in their jurisdiction and they were highly recommended as favourable adoption parents. That childless couple who could have offered a child here a stable and loving home and the benefits of two countries. That couple asked me to assist them by putting them in touch with the relevant authorities and generally to watch their interest. Well, in 2003 just two years had passed with the assenting of the Adoption of Children bill, 2000. When I looked at that Bill I said: okay, this will allow persons who are not resident who are domiciled in Trinidad and Tobago to adopt. It seemed a relatively simple and straightforward matter and I could not have been more wrong.

Around the end of 2003, I spoke with the then Minister responsible for adoption matters and I was assured that the unanticipated delays in the legislation attempts had been sorted out and government was committed to passing the legislation. It was expected that the process would be completed by mid-January 2004. A year later, around the end of 2004, a representative from the Family Services Unit regretted that the passage of the new adoption law had been delayed but she was able optimistically to assure me that the couple's name had been placed on the waiting list of prospective adoptive parents pending eminent passage of the legislation.

In July 2005, the Legal Advisor of the Adoption Board indicated that the deadline for promulgation was the end of the 2005 calendar year. Again, I was assured that while a couple aspects were still under review there were no further amendments and every expectation that the law would be going into effect.

In 2006, it transpired that the revision exercise was still going on. This time, no explanations, no answers given. In 2007, everyone's hopes were raised. In April that year several newspapers reported that social development Minister, Mr. Anthony Roberts would be laying a newly compiled children's legislation package

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for debate in Parliament within the next month, and giving the feature address at the launch of the National Plan of Action for Children at the Crowne Plaza, he stated that the package was ready for introduction into Parliament, that the package was a critical part of the plan of action and he offered reasons for the tardiness and delay, saying that the legislation affected the lives of people, so it was necessary to devote the deserved attention. This was a quote from the *Guardian* newspaper dated Saturday 21 April, 2007.

Well, Madam President, the record will show that at the Fifth Session of the Eighth Parliament, the Adoption of Children (Amdt.) Bill, 2007 was introduced by the Minister of Social Development in the House of Representatives on September 10, 2007. However, shortly thereafter the ill-fated Bill lapsed on 28th September, 2007 upon the dissolution of the Eighth Parliament.

In an article by Anna Ramdass in the *Trinidad and Tobago Express* dated 30th May, 2008, it was reported that the long overdue package of children's legislation will be next on the Government's parliamentary agenda. This was the promise of Minister Colm Imbert, Leader of Government Business. He said that in light of the murder of Hope Arismendez we will take heed and we will see whether there is a need to schedule another sitting to get things going but it is certainly the next item of business on the agenda.

And the record shows that by July 2008, however, the legislation had still not been set on the parliamentary schedule.

In September 2008, several Bills dealing with children's rights were listed in the Session of Parliament but the Adoption Bill was not one of them. A full year later, in September 2009, feedback from the Adoption Board appeared promising. There were also indications from the Ministry of Social Development and Parliament staff that the Bill was in the final stages of drafting and due to come on stream shortly. Now at that juncture, the childless couple have been patiently waiting for over six years on this very important legislation. Had they been able to adopt a three-year old in 2003, that child would now have been nine years old. Had they adopted a seven-year old, that child would have been a teenager. But alas, it was not to be.

In 2010, there was a change in Government. The new Minister in the Ministry of the People and Social Development, Dr. Glenn Ramadharsingh took pains to assure the population that the children's legislation was long overdue for implementation and was a priority for this Government. But by November 2010, neither the Law Commission nor the Ministry of Social Development could

provide information regarding the status of the Adoption of Children (Amdt.) Bill. Today, five years later, the elusive legislation finally seems to be within reach. But given the abrupt adjournment of the debate on February 03, supposedly to accommodate Carnival activities and we are adjourning again today, I am tempted not to count my eggs before they hatch. And I share Sen. Young's concern that the Bill should not be allowed to lapse again.

Sen. Lambert: You would have it this time.

Sen. A. Vieira: Surely this is one of the most ill-fated pieces of legislation in our history. To call its passage glacial would be to exaggerate its speed and it really occasions one to wonder where our priorities lie.

And yet this law is so desperately needed, not just because of a childless couple abroad who have been patiently waiting for over 15 years for the passing of this legislation or because of our compliance obligations with the United Nations Rights of the Child but because there are so many deserving children who are living in institutional care. They are in limbo.

Studies, children who are living in institutions which, as we know are bursting at the seams, studies have confirmed that the odds are stacked against children who are denied parental care or who are exposed to drug addiction and abuse. Madam President, these children deserve better. [*Desk thumping*]

This legislation will eliminate unnecessary barriers, which prevent qualified, loving, willing potential parents from adopting children. This legislation can give future generations of children in institutional care the chance for family life. [*Desk thumping*]

Besides that childless couple who have been waiting patiently for so long all these years, I have also been involved in situations where children have lost both parents, unexpected, sudden and tragic circumstances, car accidents, situations where other family members have had to rally around to see how best to care for these orphans. Invariably those members would apply for guardianship orders but there are limits to what such orders can accomplish. Oftentimes problems will arise on matters pertaining to things like schooling, travelling, dealing with health-care providers. Often, in that type of situation, an adoption order serves best.

Now, one of the worst flights in my life was in 2005, a flight from China to the United States. That flight was bad, not just because it lasted for over 14 hours, but because there were more than a dozen babies in that cabin, babies crying incessantly, babies who had just been adopted by Americans.

Now, why was it necessary, given the fact that there are thousands of children the United States in need of a family home, for American couples to fly thousands of miles to adopt children from a different race, language and culture? I do not have the answer but I wonder, perhaps, whether the adoption system there is unresponsive, whether the adoption system there takes too long, whether the adoption system there is too expensive or whether the adoption system there is overly bureaucratic.

Sen. Young touched on these matters and I agree with him. We in this Senate must be astute in ensuring that the systems being put in place, while always maintaining focus on the needs and well-being of the children under consideration, we do not get bogged down in unnecessary bureaucracy and complications.

Now, I am aware, as we have heard in this debate, that there could be a dark side to persons looking to adopt, right? Motives are not always altruistic. Some could be downright sinister. You know about people looking to exploit child labour. We hear about persons engaged in human trafficking such as the sex trade. You even hear about people looking to access vital organs in order to save or enhance the life of another person and the sale of body parts. So there is definitely a need to exercise careful due diligence and that is one of the Children's Authority's primary and most important duties.

And then again, further checks and balances are provided by the requirement for judicial oversight. Sen. Rev. Abdul-Mohan spoke of the need for continuous assessment after adoption. Well, I respectfully disagree. It sounds laudable but continuous assessment of adoptive parents after a child has been adopted, I think that could have problems because you are putting them on a different scale to the parents. You have to remember that when you adopt a child, you now become like the natural parents of that child and if there is a problem, just as with natural parents, the law will apply for abuse, neglect, that sort of thing.

So I do not think we should disfavour adoptive parents. The time to do the screening is prior to and during the adoption process.

4.40 p.m.

Now, all in all, I find that this legislation is the product of very comprehensive thought and for the most part I would say that the drafting is good. I accept that there are some aspects in need of fine tuning, but I believe these can be dealt with at committee stage.

The legislation is carefully calibrated. So on the one hand, it allows persons who are not domiciled or resident here to adopt, but on the other hand, it requires careful screening, and for several tiers of authority to be satisfied that only suitable adopters can adopt.

Section 25 of the Act sets out the criteria establishing the best interest of the child, the matters upon which a court must be satisfied before it makes an adoption order, including the wishes of the child, the ability of the prospective adopters to bring up, maintain and educate the child, matters pertaining to religion, and that no human trafficking is involved.

On that last point, and with specific reference to section 25(e) and section 9(3), and following my learned friend Sen. Dr. Mahabir, I wonder if we could look at the wide wording regarding making arrangements for adoption. Lawyers, social workers, religious persons and even relatives often get called in to facilitate adoptions, invariably with the best interest and welfare of the child in mind. I understand the context giving rise to the concerns, but where a lawyer, where a social worker, a religious person or a relative of a child, is seeking only to put relevant persons into contact with the Children's Authority, it might be useful to make clear that such persons are not acting in contravention of those provisions.

Another aspect of this legislation, which is so critical, is the provision which allows for the Children's Authority to apply to the court for an order declaring that a child be free for adoption, what Sen. Al-Rawi talked about as the "freeing provisions".

Now, I recognize that adoption is a very important legal step, in that it transfers parental risks and obligations from one person to another. In effect, what does adoption do? It severs and extinguishes parental responsibility from the child's biological parents. It vests in the adopters, the parental rights and duties relating to the child. It bestows on the adopted child a new status, one where he is in every respect, as far as the law is concerned, the child of the adopters.

Now, I recognize, and I think Sen. Cudjoe touched on this, that this is a very human situation, carrying with it all kinds of emotions, implications and consequences. For childless couples, it offers the opportunity to create a family and to care for and raise children, but for the biological parents, it can be very hard to accept such a complete and final separation, especially when it means giving up a child because of adverse circumstances, which may have arisen through no fault of their own. Such parents are placed in an impossible quandary. Can they in all good conscience relinquish their child in the hope that he can secure a better future than they can offer? Or will they, as typically happens in our society, resist and refuse the possibility of adoption, because they are emotionally unable to sever the natural ties that bind them?

Now, it is not for me the pontificate because I have never been put in that situation, and I readily accept that emotions and feelings can be overpowering, and that it is easy to be glib about situations when you are not personally affected. As the Chinese say, it is always easier for one man to solve another man's problem. But I think it is equally important to recognize that we have a situation here. We have a situation in Trinidad and Tobago where our orphanages and places of care are overwhelmed and struggling, and yet when people want to adopt, they find that there are very few children available for adoption because the biological parents just will not release them, biological parents who, notwithstanding all their hopes and good intentions, simply cannot provide for or care for their offspring.

This legislation recognizes and provides for the possibility that what is in the best interest of the child may not necessarily be what the biological parent wants. Is it right that children in institutional care should be robbed of the possibility of the chance for a better life because the biological parent cannot be found, or he is unable or unwilling to give consent, this notwithstanding the fact, that he may have persistently neglected or ill-treated the child? Is that right? Should such parents' selfish emotions and feelings trump what is in the best interest of the child?

According to Dr. Jane Nelsen, child therapist and the author of 12 books on parenting:

"The major part of our job as parents is to eventually become dispensable. So, above all, we need to encourage our children to do things for themselves.

A Great Parent Knows When to Let Go"

The poet, Kahlil Gibran, writing "On Children" in his work, *The Prophet*, I believe puts it best when he says—and Madam President, I will like to quote from *The Prophet*:

"Your children are not your children.
They are the sons and daughters of Life's longing for itself.
They come through you but not from you,
And though they are with you yet they belong not to you.
You are the bows from which your children
as living arrows are sent forth.
The archer sees the mark upon the path of the infinite,

and He bends you with His might
that His arrows may go swift and far.
Let your bending in the archer's hand be for gladness;
For even as He loves the arrow that flies,
so He loves also the bow that is stable."

Madam President, a good parent recognizes the need for his children to feel valued and loved.

A study done by the Save the Children UK entitled "The Risk of Harm to Young Children in Institutional Care", by Prof. Kevin Browne, from the University of Nottingham, discloses that children do better in stable family homes, than in institutional care. That study confirms that institutional care is associated with negative consequences for children's development, and that children in institutional care are more likely to suffer from poor health, physical underdevelopment, deterioration in brain growth, developmental delay and emotional attachment disorders.

When you love someone, you put their interest ahead of your own. You are willing to sacrifice for their benefit. An irresponsible but possessive biological parent seeks to rob a child of the opportunity of a better life. This law will allow the court to investigate and to make such orders as will be in the best interest of that child. [*Desk thumping*]

Our duty as lawmakers is to do what is in the best interest for all the children in Trinidad and Tobago. It is not right that the State should have to mind the children of uncaring and irresponsible parents who have abandoned their responsibilities. [*Desk thumping*] It is not right that such parents should seek to frustrate the possibility of their children getting a better life.

Recognizing that children in institutional care tend to have reduced intellectual, social and behavioural capabilities, compared with those growing up in a family home, and that adoption may enable a child to achieve permanent security in a substitute home, with a couple fully committed to fulfilling their parental responsibilities. This legislation is both empowering and uplifting. [*Desk thumping*]

Madam President, precious children have been deprived for far too long, given the antiquated and unsatisfactory state of the current law. Today we have a chance to positively impact the lives of many, many children who, through no fault of their own, had been placed in institutional care. Today we get a chance to afford those children a better life.

Adoption of Children (Amdt.) Bill, 2014
[SEN. VIEIRA]

Tuesday, February 24, 2015

I have been blessed in having two loving and caring parents, parents who devoted their lives to the welfare of their children. I have been blessed growing up in a stable family home with many brothers and sisters, but I recognize that this is a happiness that many children may not know. My hope is that this legislation can give kids, who through no fault of their own were displaced from their biological families, a second chance at family life.

I am proud to be part of this anxiously awaited and long-overdue legislation. Clearly, a lot of research, hard work and dedication has gone into this legislation package, and I commend all those who are responsible for getting us to this place. [*Desk thumping*]

Madam President, I thank you. [*Desk thumping*]

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President. I want to congratulate all those who have participated, but in particular, Sen. Vieira, for that very emotive, passionate [*Desk thumping*] contribution.

Madam President, in keeping with the agreement entered into by, well, all the parties' leaders this evening, I beg to move that this Senate do now adjourn to Tuesday, March 03, 2015 at 10.30 a.m., for the continuation of this debate, and for the inception of the debate on the Partial Scope Agreement with Panama.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.52 p.m.